

MINUTES

KANSAS DUI COMMISSION

August 23, 2010
Room 346-S—Statehouse

Members Present

Senator Thomas C. (Tim) Owens, Chairperson
Representative Janice Pauls, Vice-chairperson
Senator David Haley
Representative Lance Kinzer
Nicole Romine substituted for Greg Benefiel, Assistant District Attorney, Douglas County
Pete Bodyk, Kansas Department of Transportation
Major Mark Bruce, Kansas Highway Patrol
Honorable Jennifer Jones, Wichita Municipal Court
Wiley Kerr, Kansas Bureau of Investigation
Mary Ann Khoury, DUI Victim Center of Kansas
Ray Dalton substituted for Don Jordan, Secretary, Department of Social and Rehabilitation Services
Retired Police Chief Ed Klumpp
Sheriff Ken McGovern, Douglas County
Chris Mechler, Court Services Officer
Helen Pedigo, Executive Director, Kansas Sentencing Commission
Marcy Ralston, Department of Revenue
Honorable Peter V. Ruddick, 10th Judicial District
Les Sperling, President, Kansas Association of Addiction Professionals
Jeremy Thomas, Parole Officer
Doug Wells, Attorney, Kansas Bar Association
Roger Werholtz, Secretary, Kansas Department of Corrections
Karen Wittman, Traffic Safety Resource Prosecutor, Attorney General's Office

Staff Present

Athena Andaya, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Jennifer Horchem, Kansas Legislative Research Department
Jason Thompson, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Sean Ostrow, Office of the Revisor of Statutes
Karen Clowers, Commission Assistant

Member Absent

Dalyn Schmitt, Substance Abuse Professional

Others Attending

See attached list.

The meeting was called to order by Chairperson Owens at 9:10 a.m.

Doug Wells moved and Representative Pauls seconded the motion to approve the Commission minutes of May 17-18, 2010. Motion carried.

Secretary Werholtz moved, Representative Pauls seconded, to approve the Commission minutes of June 30, 2010. Motion carried.

Representative Pat George addressed the Commission on the Tele-Health Approach for Driving Under the Influence. The program uses electronic and online technology to improve access to services for offenders, both in-state and out-of-state. Screening and assessment are completed in-person at the treatment facility. Program requirements are customized to individual needs including educational sessions, online therapy, phone contacts, and monitoring. The program has been successful, especially for individuals in remote areas, out-of-state, or who have physical challenges that make in-person attendance problematic, which prevents required attendance to DUI programs (Attachment 1).

Frank Harris, State Legislative Affairs Manager, Mothers Against Drunk Driving (MADD), addressed the Commission supporting the use of ignition interlock devices (Attachment 2).

The Commission began discussion on a recommendation regarding a central repository for DUI convictions which would encompass records from arrest to conviction and be correlated with records from the Kansas Department of Motor Vehicles and the National Crime Information Center. The Commission agreed to recommend the Kansas Criminal Justice Information System (KCJIS) as the central repository. It was noted that a matter of concern is that there be accurate and timely reporting of data and adequate funding. The Commission also agreed to recommend the reporting of information and auditing of compliance be placed in a separate piece of legislation. The Commission agreed without objection.

The Commission began discussion on a recommendation regarding the jurisdiction of municipal courts. Following discussion, *Secretary Werholtz moved, Mary Ann Houry seconded, that municipal courts that wish to have jurisdiction over DUI cases must meet the standards set by the Supreme Court. The standards would utilize a standardized risk assessment and evaluation, require compliance with the recommendations of the risk assessment and evaluation, ensure the offender is appropriately supervised based upon the risk of reoffense, and have the ability to report the data electronically to the central repository. The Supreme Court would be given resources to ensure compliance with the rules it promulgates for municipal courts to have jurisdiction over DUIs. Representative Pauls amended the motion, to add municipal courts wanting jurisdiction over first- and second-time DUI cases must be approved by the Supreme Court and that municipalities not meeting the criteria will not be authorized to have an ordinance relating to DUI and would be required to refer DUI cases to the district court. Motion carried.*

The Commission began discussion regarding whether a third offense DUI should be classified as a misdemeanor or a felony. Following discussion, *Representative Kinzer moved, Karen Wittman seconded, to retain third offense DUIs as a felony and change existing statutes to allow the courts to retain jurisdiction over the case post sentence. Motion carried.*

Roger Werholtz moved and Representative Pauls seconded the motion to recommend fourth and subsequent offense DUIs be placed on the Kansas Sentencing Guidelines Grid as a severity level 7 felony, with two methods of scoring criminal history, whichever is higher. Either score by regular method, or score by special rule where a fourth DUI is a category G, severity level 7, and progress higher with each offense. The sentence would include a two-year post-release supervision, with immediate availability for probation upon completion of treatment to be determined by the Parole Board. Motion carried.

The Commission discussed recommendations regarding implementation of a decay factor on DUI convictions. *Doug Wells moved, Ken McGovern seconded, to implement a decay factor on a DUI conviction after ten years providing a clean record has been maintained. Any conviction within the ten-year period will reset the ten-year cycle.*

Following further discussion, Doug Wells amended the motion to implement a decay/lookback on DUI convictions to ten years provided there has been no prior occurrence which encompasses a diversion, conviction, test failure, or test refusal. Ken McGovern agreed to the amended motion.

Ed Klumpp made a substitute motion to limit lookback to July 1, 1996. Karen Wittman seconded the motion. Motion carried.

Representative Pauls moved, Doug Wells seconded, to recommend following a second offense, if a clean ten-year record has been maintained, the third offense will be charged as a misdemeanor. Motion carried.

The Commission discussed the issue of administrative hearings and test refusals. Following discussion, both questions were referred to the next meeting to allow for compilation of additional information.

The Commission discussed recommendations regarding ignition interlock devices. Doug Wells suggested allowing the use of an ignition interlock device in place of any suspension or restriction and prohibiting the operation of any vehicle without an interlock device for offenders convicted of a DUI. Karen Wittman reviewed the recommendations made by the Law Enforcement/Recordkeeping Subcommittee.

Mary Ann Khoury moved to enhance the current ignition interlock device statutes to include KDOT recommendations. There was no second.

Representative Kinzer moved and Jeremy Thomas seconded the motion to recommend on first offense convictions or refusals:

- *Tests results of .08 BAC to less than .15 BAC: A 30-day suspension and mandatory use of an ignition interlock device for one year and to be restricted to driving to and from work or treatment;*
- *Test results of .15 BAC and greater: A 45-day suspension and mandatory use of an ignition interlock device for two years and to be restricted to driving to and*

from work or treatment during the first year and no restriction for the second year;
and

- *Test refusals: A 45-day suspension and mandatory use of an ignition interlock device for two years and to be restricted to driving to and from work or treatment during the first year and no restriction for the second year.*

The motion provided for good-time credit to be awarded for compliance. The motion granted the revisor latitude to include compliance with federal law.

Doug Wells made a substitute motion to change Representative Kinzer's motion by changing the test refusal sentencing to that of a first offense where the test result is less than .15. There was no second.

Representative Kinzer's motion carried.

The Commission discussed its recommendation on ignition interlock devices on second and subsequent convictions of DUI. Representative Kinzer moved, Representative Pauls seconded, to recommend on second and subsequent convictions, to follow the Commission's recommendation on a first offense or refusal, but to extend the requirement for an ignition interlock device by one additional year. Therefore, for tests results of .08 BAC to less than .15 BAC: A 30-day suspension and mandatory use of an ignition interlock device for two years, rather than one year, and to be restricted to driving to and from work or treatment. For test results of .15 BAC and greater, or a test refusal: A 45-day suspension and mandatory use of an ignition interlock device for three years, rather than two years, and to be restricted to driving to and from work or treatment during the first year and no restriction for the remaining years. Motion carried.

The meeting adjourned at 5:02 p.m. The next scheduled meeting is September 27, 2010.

Prepared by Karen Clowers
Edited by Athena Andaya

Approved by the Commission on:

October 8, 2010

(Date)

PLEASE CONTINUE TO ROUTE TO NEXT GUEST

DUI COMMISSION COMMITTEE GUEST LIST

DATE: Aug 23, 2010

NAME	REPRESENTING
Frank Harcig	MADD
Corey Kenney	City of Lenexa
Patrick Vazeborg	Kearney and Assoc.
Kevin Badone	KIFB
DARIAN DERNOVICH	KHP
JEAN MICEL	CAROLINE STRATEGIES
Phil Bradley	KUBA +
Stuart Little	Little Government Relations
Sarah Hansen	KAD

DUI Presentation

Presenter: Ken Gregoire, CEO-Valley Hope Association

Improving access to services for offenders, in-state and out of state

- AC/ESS Accessible Care Effective Support Services offers DUI offenders a comprehensive program with psycho-educational sessions, in-person sessions, a secure online-therapy room, phone contacts, and daily or weekly monitoring.
- Screening/assessment must be completed in-person at a Valley Hope treatment facility if the individual resides within the state. If the individual does not reside within the state an approved facility or provider can provide the assessment and screening. If an outside provider provides the screening or assessment Valley Hope will still conduct their own assessment for level appropriateness (at no charge to the patient).
- Individualized treatment planning for any level other than level 2 education only.
- The DUI program requirements can be customized to the individuals needs with convenient 24 hour a day access to the online therapy room which contains psycho-educational sessions, group activities, and the availability of contacting a counselor via a private message system.
- Daily or weekly check in to the online therapy room is required by Valley Hope with certain levels of care for DUI Offenders. Level 1 requires check in whereas Level 2 does not. If a legal representative would like to add this requirement to any level 2 patient VH will work with the legal representative to meet the requirements for each individual.
- The online therapy room records the time an individual is in the room working on assignments or involved in group activities or responding to other group members. A security feature is activated when a participant is not active in the room for 5 minutes. (The online system will automatically log off the individual ensuring that times are accurate for participation).
- Coordination of care or program progress/requirements with outside sources (probation officers, lawyers, judges, therapists, doctors). This program component is important for in-state but becomes very important when working with out of state DUI offenders.

Contact with Out of State Offenders

- The AC/ESS program allows out of state offenders the opportunity to access treatment services that will meet the state requirements. Most states require that an individual completes DUI requirements within the state the violation occurred. Many individuals receive DUI's within states that are not the individual's state of residence. This program allows them to meet state requirements and complete treatment or educational requirements.
- Coordination with providers in the state the individual resides in.

Aggressive Monitoring of Offenders

- Daily monitoring or any level of monitoring can be achieved through the ACESS program. Different states specify different monitoring requirements. This requirement helps to

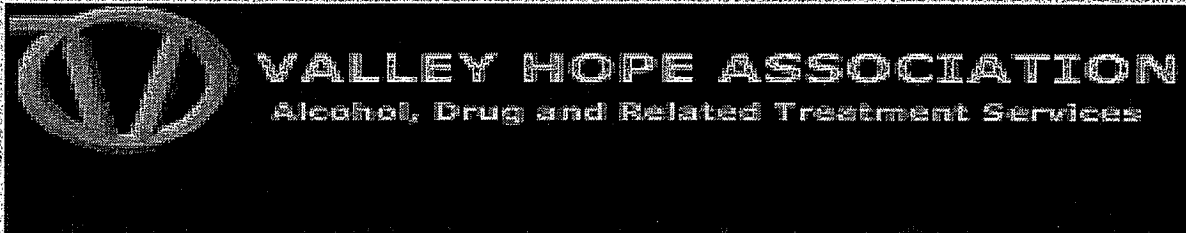
DUI Commission 2010

8-23-10
Attachment 1

promote accountability and responsibility. A high level of monitoring also has proven to detect relapses or using prior to the actual use allowing for earlier intervention.

Valley Hope Association DUI Program for Arizona

- Refer to attached proposal



Valley Hope Association Accessible Care Effective Supportive Services (AC/ESS)

Proposal: Valley Hope Accessible Care Effective Support Services (AC/ESS) would like to expand services for potential persons who are charged with Driving Under the Influence (DUI).

Subclass: Valley Hope Association provides quality substance abuse treatment for patients that struggle with chemical dependency. The AC/ESS program treats patients in an outpatient setting for level one and two structures of care outlined by the American Society of Addiction Medicine criteria. This proposal includes treating DUI offenders in this multi-modality format. This would be an addition to the AC/ESS current program of treatment and focus on DUI education which would be added to AC/ESS treatment program description.

Goals: Valley Hope Association is offering treatment services for individuals that need to complete DUI classes that may be in remote areas, out of state, physical problems that prohibit normal in person attendance, or other unique circumstances that prevent them from attending in person DUI programming.

Program Description: See the AC/ESS Consent for treatment which will be modified to DUI terminology and state requirements.

Counseling format: The DUI program would include an in person assessment to screen whether or not the potential DUI offender would be appropriate for this modality of care. The DUI offender would receive individual counseling sessions via phone or in person as assessed by the DUI class facilitator. At a minimum the DUI offender would receive one individual session which would be the initial assessment. The DUI offender would be involved in group sessions in an asynchronous environment at least twice weekly. The offender would receive feedback from the group facilitator when they turn in individual assignments pertaining to the lectures completed in the online environment. The website will calculate the time spent online completing individual assignments, reading lectures, and watching educational videos through the website. The website will log the DUI offender off if there is over five minutes of idle time on the website to ensure productivity in this program and accuracy in the time spent on these modules and group discussion. The calculations of the website will be helpful in determining the hours spent on assignments and group activities to meet the court requirements for DUI education and is mandated by any court to complete alcohol/drug education classes.

Program Hours and days: The AC/ESS DUI program would be in an asynchronous environment where the offender can complete coursework 24 hours a day, 7 days a week. The group discussion portion of

the DUI classes would be Monday through Friday, unless there is a schedule holiday. The offender would then need to make up the assignments and hours as directed by the group facilitator. The offender would need to complete the hours mandated by the court and then will receive an official letter of completion sent to the courts with the offender's permission.

Location of Services: The AC/ESS program would be through Valley Hope Association Corporate office located in Norton, Kansas. The DUI AC/ESS program would be facilitated in Arizona at Tempe Valley Hope. The offender would **not** need to reside in the State of Arizona and/or have an Arizona residence during the DUI class participation. For those that reside out of the State of Arizona, a screening must be complete in person at a location nearest the participant. That screening information will be sent onto the DUI facilitator at Valley Hope and an additional screening will be complete before an admission into the program is authorized.

Criteria for Admissions and Referrals: The current criteria for DUI offenders wanting to participate in the AC/ESS DUI program would be that the person has received a DUI in the State of Arizona or another state, has consistent computer capability, and has a basic working knowledge of computers such as email, or navigating the internet.

If a DUI offender is non-compliant with the direction of the DUI facilitator, the offender will be referred to a DUI in person program to better suit the offenders needs and further accountability. If there is an additional concern for the offender in terms of mental health or other substance abuse issues, the offender will be referred to an appropriate level and modality of care in his/her area. This may be adding additional structure for the offender with in person individual counseling, family involvement, or referring out to a higher level of care.

Staff Qualifications: Staff members facilitating the AC/ESS DUI program would need to be a License Independent Substance Abuse Counselor (LISAC) credential.

Fees and Refunds: The offender is responsible for obtaining approval to participate in the Valley Hope DUI program from their attorney or presiding judge. Should an offender complete the DUI coursework and it is not recognized or honored by the court in which the offender is required to attend for the DUI charges, no refund will be given to the DUI offender. If an offender is non-compliant with the DUI facilitator's request and discharged unsuccessfully, or if an offender chooses not to complete the program for whatever reason, then no refunds will be given to the offender.

Testing: Staff would use the SASSI testing instruments before DUI services are rendered. The MMPI-2 test may also be utilized if it is assessed as necessary for proper diagnosis.

Non-English Speaking Clients: At this time, Valley Hope does not have any translators for the AC/ESS DUI program. The offender needs to be able to read, write and speak the English language sufficiently enough to understand and complete all necessary DUI coursework.

Accommodations for Physical Disabilities: The AC/ESS DUI program would be able to accommodate most physical disabilities due to the nature of the modality of the program. As long as the offender is

able to type, comprehend and read the material necessary for the DUI program, they likely would be a candidate for this modality of classes.

Partial Care: The AC/ESS program is considered an outpatient service. Medications are not disposed through the DUI AC/ESS program. Any offender needing medication management would be given a referral if needed, or monitored through the offender's physician of choice.

Security: The AC/ESS program is a secured website with three levels of security. It includes a patient log in ID, security question and password. The offender would only have information aforementioned, and be known anonymously in the AC/ESS format. Meaning, the offender would be registered as first name last initial to protect the information and no identifying information would be available to the group or any other outside sources. The DUI AC/ESS program would continue to follow confidentiality laws and not release information unless there is a release of information signed by the offender.

Emergency Response: All DUI offenders would be asked to sign a release of information for at least one emergency contact upon admission into the DUI AC/ESS program. In the event of a medical, psychiatric, or other situation requiring face-to-face intervention, the DUI offender is responsible for seeking appropriate help. Nationwide crisis intervention and help resources in the United States are presented to each AC/ESS DUI offenders at the time of admission, and include the following:

-<http://www.suicidehotline.com>

-1-800-SUICIDE

-1-800-799-SAFE

Program Guidelines: Valley Hope Association would like to provide two different levels of care for DUI clientele in the State of Arizona. These tentative guidelines are as follows and subject to change as more research is completed in following Arizona state laws for DUI penalties and working with the court system in Arizona.

Level Two DUI Classes

This population of clientele would be for first offense of a DUI. This will include preventative work to address potential addiction issues, as well as developing coping skills. Each topic will be presented in one hour in a lecture format and the second hour will be discussing this in a group format. The group discussions can be in real time or in an asynchronous environment. Therefore, each topic will have two hours total which will be a total of 16 program hours for a first offense or less than an abuse diagnosis. These topics listed below are suggested modules which will include education on the topics and individual assignments attached to each lecture. The participant will engage in group discussion twice per week to equal four hours per week until the time requirement is met. The participant may not finish this level of care for DUI services before 4 weeks.

Mandatory topics for the 16 hour education programming are the following according to the Office of Behavioral Health Licensure (OBHL) in Arizona:

- DUI, societal effects and legal impact of DUI

- Introduction to addiction
- Physiological effects of alcohol or drug use
- Realities of addiction
- Addiction and relationships/family system
- Community support

Criteria for assessing which program the participant will be assigned:

A level I DUI client is a DUI client who meets at least one of the following according to the Office of Behavioral Health Licensure:

- Has been arrested or convicted 2 or more times for alcohol or drug-related offenses
- Had an alcohol concentration of .15 or higher at the time of the arrest.
- Has been unable to control use of alcohol or drugs or has habitually abused alcohol or other drugs
- Admits a problem controlling alcohol or drug use
- Has been diagnosed with substance abuse or organic brain disease resulting from substance abuse
- Has experienced symptoms of withdrawal from alcohol or drug use that included visual, auditory, or tactile hallucination, convulsive seizures, or delirium tremens or
- Has been diagnosed with alcoholic liver disease, alcoholic pancreatitis, or alcoholic cardiomyopathy by a medical practitioner or
- B. Meets at least three of the following:
 - During DUI screening, provided responses on the standardized instrument that indicated substance abuse
 - Had an alcohol concentration of .08 or higher at the time of the arrest that led to the current referral
 - Has previously been arrested or convicted one time for an alcohol or drug related offense
 - Has experienced a decrease in attendance or productivity at work or school as a result of drug or alcohol use
 - Has experienced blackouts as a result of alcohol or drug use

- Has passed out as a result of drug or alcohol use
- Has experienced symptoms of withdrawal from alcohol or drug use including shakes or malaise relieved by resumed alcohol or drug use; irritability, nausea or anxiety
- Exhibits a psychological dependence on drugs or alcohol
- Has experienced an increase in consumption, a change in tolerance, or a change in the pattern of alcohol or drug use or
- Has experienced personality changes associated with alcohol or drug use and

A level II client is a DUI client who

- Does not meet any of the criteria in mentioned above and
- Meets no more than 2 of the criteria listed above.

Level One DUI Classes

The next program at a higher level can be for abuse to dependence stage people that are in the category. Each topic will be presented in one hour in a lecture format and the second hour will be discussing this in a group format. The group discussions can be in real time or in an asynchronous environment. These topics listed below are suggested modules which will include education on the topics and individual assignments attached to each lecture. The participant will need to complete all modules and log on four hours per week until the time requirement is satisfied. Participants may need to stay and participate in the group discussions if all modules are completed until the time requirement is complete. This program can be 36 or more hours addressing the following topics:

-Addiction progression/cycle

-Self-esteem

-Conflict resolution

-Dealing with stress effectively

-Relationship building

-Psychological conflicts

-Physical aspects of addiction

-Financial responsibility

- Introduction to the 12 steps
- Addiction as a family disease
- Cross addiction
- Relapse prevention
- Mental Health
- Grief as it pertains to addiction
- Effective communication
- Anger
- Recreation
- Family support
- Legal aspects of DUI

*Note: OBHL does not have a required list of topics for the Level I program.

Intensive Outpatient Programming

This program would be participating in the AC/ESS Intensive Outpatient Program (IOP) which is 54 hours of substance abuse treatment. This is considered to be level two level of care according to American Society of Addiction Medicine (ASAM) criteria. The DUI offender would need to be diagnosed with DSM-IV criteria for substance abuse or chemical dependence according to specific criteria for each substance used. This would be for DUI offenders who need over 36 hours of treatment due to the severity of the offense. This program is 9 hours per week for 6 weeks, totaling 54 hours which should exceed the requirement for DUI offenders needing 36 hours of treatment or alcohol education classes or more. This program consists of 18 modules which includes lectures and assignments, as well as daily group discussion in an asynchronous environment.

Prices Suggestions

DUI program the pricing suggestions are as follows but are tentative. For the level one DUI program we are projecting to charge \$200 for the classes. For the level two program we are anticipating a charge of \$650 for this program. The Intensive Outpatient program AC/ESS charges would remain the same as outlined in our statement of charges, which approximately \$3186.00 total for the IOP program.



MADD
Activism Victim Services Education

Mothers Against Drunk Driving
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DUI Felony Laws

DUI Felony laws refer to laws that make DUI/DWI a felony offense based on the number of prior convictions. This document explores DUI Felony laws pertaining to those who do not kill or injure a person in a drunk driving related conviction.

In April 2008, MADD found that there were **two million** three-time or more and **400,000** five-time or more drunk driving offenders. MADD believes that states should emphasize more effective anti drunk driving countermeasures for first time convicted drunk drivers as to prevent repeat offenses.

NHTSA estimates that one thirds of first time convicted drunk drivers repeat their offenses.

DUI Felony laws vary greatly. Many have time constraints as so a DUI offense can only be considered a felony if the previous DUI offense was within five or ten years.

DUI Felony Conviction Does Not Equal Incarceration

An offender convicted of a felony DUI offense is not guaranteed incarceration. A *Milwaukee Journal Sentinel* analysis of 161 felony DUI cases between 1999 to 2006 demonstrated this. The maximum sentence for these offenders would be three years incarceration and three years community supervision, yet none of those studied received the maximum sentence.

The *Milwaukee Journal Sentinel* noted:

Just 70 defendants, or 43%, went to prison, receiving an average sentence of 18 months. Seventeen of those had an opportunity to shave substantial time off their sentences by completing boot camp or a treatment program. At least one defendant got out early after petitioning the judge.

More defendants were sentenced to probation than prison. Although 70 of the 71 who got probation terms served between three and 12 months in the Milwaukee County House of Correction, about half were allowed to spend their days in the community on work release. Twenty more defendants received jail sentences, 11 with work-release privileges.

Source: <http://www.jsonline.com/news/wisconsin/31262254.html>

States with Felony DUI Laws

Forty-five states have felony DUI laws for convictions. The District of Columbia and the following states do not: Colorado, Maryland, Maine, Rhode Island and Pennsylvania.

How Many DUI Convictions for a Felony?

Second Offense	Third Offense	Fourth Offense	Fifth Offense
Indiana (with previous offense within five years)	Alaska (With previous offense within ten years)	Alabama (with previous offense within five years)	North Dakota
Minnesota (based on circumstances)	Arizona	Arkansas (with previous offense within five years)	
New York (With previous offense within ten years)	Connecticut (With previous offense within ten years)	California	
Oklahoma (With previous offense within ten years)	Delaware	Georgia (With previous offense within ten years)	
	Florida (With previous offense within ten years)	Hawaii	
	Idaho	Kentucky	
	Illinois	Louisiana	
	Iowa	Montana	
	Kansas	Nebraska (with previous offense within twelve years)	
	Massachusetts	New Hampshire	
	Michigan (With previous offense within ten years)	New Mexico	
	Mississippi	Ohio (with previous offense within six years)	
	Missouri	Oregon	
	Nevada	South Carolina (With previous offense within ten years)	
	North Carolina	Tennessee (With previous offense within ten years)	
	South Dakota (with previous offense within five years)	Washington (With previous offense within ten years)	
	Texas	Wisconsin (with previous offense within five years)	
	Utah (With previous offense within ten years)	Wyoming (with previous offense within five years)	
	Vermont		
	Virginia (With previous offense within ten years)		
	West Virginia		

State Felony DUI Laws

State	Description
Alabama	4th or subsequent offense within five years is a felony
Alaska	3rd of subsequent offense with ten years is a felony
Arizona	3rd of subsequent offense is a class 4 felony
Arkansas	4th or subsequent offense within five years is a felony
California	4th or subsequent offense is a felony if offender is sentenced to prison
Colorado	None
Connecticut	3rd and subsequent offense within ten years are felonies
Delaware	3rd offense is a class G felony
D.C.	None
Florida	3rd or subsequent offense within ten years is a 3rd degree felony
Georgia	4th offense within ten years is a felony
Hawaii	4th of subsequent offense is a class C felony
Idaho	3rd or subsequent offenses are felonies
Illinois	3rd and subsequent offenses are class 4 felonies
Indiana	subsequent conviction within five years, it is a class D felony
Iowa	3rd or subsequent offense is a class D felony
Kansas	3rd or subsequent offense is a non person felony
Kentucky	4th or subsequent offense are class D Felonies
Louisiana	4th offense is a felony
Maine	None
Maryland	None
Massachusetts	3rd or subsequent offenses are felonies
Michigan	3rd of subsequent offenses within ten years are felonies
Minnesota	2nd offense based on circumstances
Mississippi	3rd and subsequent offenses are felonies
Missouri	3rd of subsequent offenses are class D felonies
Montana	4th and subsequent offenses are felonies
Nebraska	4th and subsequent offenses within 12 years are IV felonies
Nevada	3rd of subsequent offenses are category B felonies
New Hampshire	4th or subsequent non-injury DUI offenses are felonies
New Jersey	None
New Mexico	4th offense is a 4th degree felony
New York	2nd offense within ten years is a class E felony
North Carolina	4th of subsequent offense is a class F felony
North Dakota	5th and subsequent offenses are class C felony
Ohio	4th offense within six years is a fourth degree felony
Oklahoma	2nd and subsequent offenses within ten years are felonies
Oregon	4th and subsequent offenses are class C felonies
Pennsylvania	None
Rhode Island	None
South Carolina	4th and subsequent offenses within ten years are class F felonies
South Dakota	3rd offense within five years is a class 6 felony

State Felony DUI Laws

State	Description
Tennessee	4th and subsequent offenses within ten years is a class E felony
Texas	3rd and subsequent offenses are 3rd degree felonies
Utah	3rd and subsequent offenses within ten years are 3rd degree felonies
Vermont	3rd and subsequent offenses are felonies
Virginia	3rd offense within ten years is a class 6 felony
Washington	4th or subsequent DUI related offenses within ten years
West Virginia	3rd and subsequent offenses are felonies
Wisconsin	4th offense within five years is a class H felony
Wyoming	4th or subsequent offenses within five years are felonies

Revised August 2010