

DUI INFORMATION SHEET
NOTICE TO ALL DEFENDANTS CHARGED WITH DUI OR PHYSICAL CONTROL

YOU HAVE BEEN CHARGED WITH DRIVING (OR BEING IN ACTUAL PHYSICAL CONTROL OF) A MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS. THOSE CHARGES ARE REFERRED TO HEREAFTER AS "DUI." HOWEVER, **PLEASE FINISH READING THIS NOTICE.**

DEFERRED PROSECUTION INFORMATION

Even though you have been charged with DUI, you may be eligible to petition (ask) the Court to be placed on Deferred Prosecution. The Deferred Prosecution program is an alternative to conviction and punishment for those persons who have an alcohol (or drug or mental) problem and who will benefit from a treatment program. If you are accepted into AND COMPLETE the Deferred Prosecution program, you will not be convicted of the offense with which you are currently charged, nor be required to serve any jail time or pay a fine, nor will you lose your license to drive a motor vehicle. Also, at the end of the five-year period¹, the charges against you will be dismissed (but may be grounds for an enhanced penalty if you subsequently commit DUI). You will, however, be required to successfully complete an intensive two-year treatment program for your alcohol, drug or mental problem, and arrange to pay the cost of such treatment, and you will also be required to install an Ignition Interlock Device on any car you drive for a period designated at the time of deferral. **AND THE DIRECTOR OF LICENSES WILL PLACE YOUR LICENSE IN A PROBATIONARY STATUS FOR 5 YEARS FROM THE VIOLATION DATE.**

However, the Court will **NOT** accept a Petition for Deferred Prosecution from anyone who has previously been on Deferred Prosecution, or who sincerely believes they are innocent of DUI, or who believes that they do not, in fact, have an alcohol (or drug or mental) problem.

Furthermore, before you are accepted into the Deferred Prosecution program, you will be required to stipulate (admit) to the facts contained in the police reports (including the results of any breath or blood alcohol tests.) Those reports will be used to convict you of the offense charged if the Court finds cause to remove you from the program.

You **MUST AND WILL** be removed from the program (and be found guilty and sentenced without further trial) if you are convicted of an offense similar to the one with which you are currently charged, during the Deferred Prosecution period (at least 5 years) and you **MAY AND PROBABLY WILL** be removed from the program (and be found guilty and sentenced without further trial) if you fail to follow and complete the treatment

¹ Charges may only be dismissed at the end of a three year period following proof of successful completion of the two year treatment program, and no sooner than five years after entry of the order deferring prosecution.

program or otherwise fail to comply with all of the terms of the order placing you on Deferred Prosecution.

EVEN IF you decide not to petition for Deferred Prosecution, and if you are subsequently found guilty of the offense charged, some of the fine or jail sentence may be suspended on condition that you seek and obtain treatment for your alcohol, drug or mental problem. Also, you may always seek treatment from public or private agencies at any time without regard to whether or not you are found guilty. In addition, you are advised that if you are found guilty, the Court or Director of Licenses may still require you to enter and complete a treatment program even if you do not petition for Deferred Prosecution.

If you wish to investigate the advisability of petitioning for Deferred Prosecution, tell the Judge when you are arraigned, and you will be referred to a state approved alcohol (or drug or mental health) evaluation agency, and your case will be continued (postponed) to allow time for an evaluation to be made. After the evaluation is completed, you can decide whether or not you wish to enter the Deferred Prosecution program, or proceed to trial on the charge.

THE MAXIMUM PENALTIES FOR CONVICTION OF DUI (driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs) ARE \$5,000.00 FINE AND ONE YEAR IN JAIL. ALSO, THE DIRECTOR OF LICENSES WILL SUSPEND YOUR DRIVING PRIVILEGE (LICENSE) FOR UP TO “FOUR” YEARS, DEPENDING ON YOUR PRIOR DRIVING RECORD. THERE ARE CERTAIN **MINIMUM** PENALTIES, AS FOLLOWS:

1. If at the time you were arrested for this offense you had within the preceding seven-year period:
 - a. not been arrested for a DUI which resulted in a conviction or deferred prosecution (“**first offense**”):
 - i. and your alcohol concentration was **under .15^o**: 1 day jail, \$823 fine, license suspension for 90 days.
 - ii. and your alcohol concentration was **.15 or above, or you refused a test**: 2 days jail, \$1,078 fine, license revocation for 1 year, ignition interlock requirement for 1 year.
 - b. been arrested once for a DUI which resulted in a conviction or deferred prosecution (“**second offense**”):
 - i. and your alcohol concentration was **under .15^o** : 30 day jail and 60 days Electronic Home Monitoring (EHM), \$1,078 fine, license revocation for 2 years, ignition interlock requirement for 1 year.

- ii. And your alcohol concentration was **.15 or above, or you refused a test:** 45 days jail and 90 days EHM, \$1,503 fine, license revocation for 900 days, ignition interlock requirement for 1 year.
 - c. been arrested two or more times for DUI offenses which resulted in conviction or deferred prosecution (**third or subsequent offense**):
 - i. and your alcohol concentration was **under 15^o:** 90 days jail and 120 days EHM, \$1,928 fine, license revocation for 3 years, ignition interlock requirement for 1 year.
 - ii. And your alcohol concentration was **.15 or above or you refused a test:** 120 days jail and 150 days EHM, \$2,778 fine, license revocation for 4 years, ignition interlock requirement for 1 year.
2. All persons convicted of DUI must:
 - a. pay a \$125.00 breath/blood test fee (included in fine quoted above).
 - b. pay a 60% surcharge assessment on all fines (included in fine quoted above).
 - c. get an alcohol evaluation and complete a treatment program determined by the court, with a minimum of alcohol information school.
 - d. have their license be in a probationary status for 5 years after the applicable suspension period.
 - e. Surrender any driver's license immediately to the Court, or be confined in jail for the period of such suspension or revocation or until the license is surrendered.
3. For the next five years, the court must suspend your driving privilege for 30 days each time you:
 - a. drive without a license or insurance, or
 - b. drive with an alcohol concentration of .08 or more, or
 - c. refuse to submit to a breath or blood test when there is reasonable grounds to believe you were DUI, whether or not you are subsequently convicted of the new offense of DUI.

AND the court must sentence you to jail for 30 days each time you commit 3(a) plus 3(b) or 3(c).

4. Once suspended or revoked your license remains suspended or revoked for the minimum period applicable **AND** until it is restored to you upon your application to and reinstatement by the Department of Licenses. To have your license restored to you, you must maintain liability insurance and file proof

with the Director of Licenses, and pay a reinstatement fee, and you may be required to complete up to 60 days of alcohol treatment.

*HOWEVER, conviction of three major traffic offenses (such as DUI) in a five-year period may cause the Director of Licenses to classify you as a Habitual Traffic Offender, and revoke your license for FIVE YEARS.

°or there is no breath or blood test for any reason other than a refusal to take a test.

SPECIAL NOTE: If you are charged with second offense, DUI within 5 years of being placed on deferred prosecution for or convicted of DUI, it is or may be a crime for you to transfer interest you have in the car you were driving until the case is completed (or for 60 days after conviction), and if you are convicted, the car may be forfeited to the State (or City).

THE COURT CANNOT ISSUE AN OCCUPATIONAL LICENSE. Occupational licenses **may** be granted by the Department of Licenses, but not during the first 30 days of any license suspension, nor during any period your license is suspended for refusal to take a breath or blood test or for a conviction under #2 or #3 above, or within 5 years of the time a prior DUI was committed.