

# Basic Penalties

## First Offense DUI

No BAC or .08% - .99% BAC ⊗  
No License Suspension  
Mandatory Probation (No Mandatory Jail)  
\$300 Fine + Court Costs  
.10% - < .16% BAC  
One (1) Year License Suspension  
Mandatory 48 Hours of Incarceration  
\$500 - \$5,000 Fine + Court Costs  
.16% BAC or Higher / Drug DUI ⊗  
One (1) Year License Suspension  
Mandatory 72 Hours of Incarceration  
\$1,000 - \$5,000 Fine + Court Costs

## Second Offense DUI

No BAC or .08% - < .10% BAC \* ⊗  
One (1) Year License Suspension  
Mandatory Five (5) Days of Incarceration  
\$300 - \$2,500 Fine + Court Costs  
.10% - < .16% BAC \*  
One (1) Year License Suspension  
Mandatory 30 Days of Incarceration  
\$750 - \$5,000 Fine + Court Costs  
.16% BAC or Higher / Drug DUI \* ∇ ⊗  
18 Month License Suspension  
Mandatory 90 Days of Incarceration  
\$1,500 - \$10,000 Fine + Court Costs

## Third Offense DUI

No BAC or .08% - < .10% BAC \* ∇ ⊗  
One (1) Year License Suspension  
Mandatory Ten (10) Days of Incarceration  
\$500 - \$5,000 Fine + Court Costs  
.10% - < .16% BAC \* ∇  
18 Month License Suspension  
Mandatory 90 Days of Incarceration  
\$1,500 - \$10,000 Fine + Court Costs  
.16% BAC or Higher / Drug DUI \* ∇ ⊗  
18 Month License Suspension  
Mandatory One (1) year of Incarceration  
\$2,500 - \$10,000 Fine + Court Costs

- \* One (1) Year of Ignition Interlock Required  
∇ Prohibition on certain firearm rights  
⊗ Additional One (1) year license suspension if  
blood draw refused

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# DUI Guide

## Penalties, Suspensions, Diversion Programs & Possible Defenses

This brief guide will provide you with a precursory background of DUI law in Pennsylvania.

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## Stages of a DUI Case

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### Stage 1: Arrest

All DUI cases begin with the initial arrest. This often begins with the officer conducting field sobriety tests (FSTs) which are designed to induce failure. Eventually they will transport you for a blood test where you face the difficult decision as to whether or not to consent to a blood draw.

### Stage 2: Preliminary Hearing

The first scheduled court-date will be the preliminary hearing. This is a crucial stage of the case. If a trial or constitutional challenge is likely, this hearing will lay the groundwork for that defense. This hearing will be held at the local magistrate's office.

### Stage 3: Formal Arraignment

Formal arraignment held at the county courthouse. If entering a diversionary program, that process will begin at this court-date.

### Stage 4: Discovery

If a diversionary route is not sought at the Formal Arraignment, the District Attorney has an obligation to provide you with all evidence against you many items of evidence in your favor, upon request. This process is called discovery.

### Stage 5: Pre-Trial Motions

Upon review of the discovery you have limited timeframe in which to file legal requests of the court prior to trial. Some of these requests may be to dismiss the case due to lack of evidence or to rule that some evidence against was illegally obtained amongst other requests. Many of these motions may require a hearing or mini-trial of their own.

### Stage 5: Trial

If your case was not dismissed or resolved by a diversionary program or plea & sentencing agreement, trial will follow. Many DUIs are not eligible for jury trials and your fate guilt or innocence may be determined by only a single judge. Your attorney's knowledge of this judge will be invaluable.

### Stage 6: Sentencing

Ideally one never reaches this stage, or any previous stage, of a DUI case. If one does, that means there has been a conviction either through trial or plea. While all DUIs have a mandatory minimum sentence, the method of serving this sentence at issue here. Your attorney's knowledge of sentencing options will assist you in achieving the least restrictive sentence.

## Alternate Sentencing Programs

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While ARD is the only method available to completely remove mandatory minimum sentences and convictions, many other programs exist to make sentences more tolerable. These programs and their availability may differ from county to county.

- **House Arrest** – House Arrest allows an individual to serve a sentence from the comfort of their residence. When on House arrest, you will be able to go to work, school and run errands but you may be required to operate on a set schedule approved by the probation or parole department.
- **Work Release** – Work Release allows an individual to maintain their employment and attend priority personal obligations but requires time not spend working or doing other pre-approved activities to be spent in a community corrections center. Some counties also allow individuals to take periods of up to 48 hours of furlough or “vacation” time to visit with family members and sleep at home.
- **ASP** – Northampton County typically does not permit a House Arrest only sentence but allows for a quick step-down program of a brief period in actual jail, followed by a period of Work Release and finally a period of House Arrest.
- **TCAP** – TCAP is a unique treatment program oriented towards those with serious drug and alcohol problems who have been charged with a third offense DUI. While TCAP may reduce a one (1) year mandatory minimum sentence to 90 days, the incarceration and intensive treatment makes maintenance of employment all but impossible. For this reason, given the choice, many defendants may opt for a long sentence that offers immediate work release.

## Diversionary Programs

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Accelerate Rehabilitative Disposition (ARD)

- **ARD Eligibility** – First time “offenders” and those who have not been convicted or charged with DUI within the past 10 years may be eligible. However, the District Attorney may deny eligibility based upon a number of other circumstances.
- **ARD Benefits** – Acceptance into ARD can remove all mandatory minimum periods of incarceration reduce one-year license to suspensions to as low as 30 days. Additionally, ARD never results in a conviction and public records of the arrest may be expunged.
- **ARD Drawbacks** – ARD has significant costs and may also require the completion of community service. Additionally, it may not completely remove a license suspension despite the arrest being expunged, ARD counts as a prior offense for the 10 following years.

### What should I do if Stopped for a DUI?

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Due to recent changes in the law, asking 10 different DUI experts may result in 10 different answers to this question, however:

Refusing FSTs may be used against you, however many also agree the FSTs are designed for failure.

Refusing a blood test cannot lead to increase criminal penalties. However, refusing a blood test is almost guaranteed to result in an additional year license suspension. Therefore, a first-time offender may generally be better off submitted to the test but a third-time offender who is heavily intoxicated may be better of refusing the test as they will receive an additional year license suspension, but they may reduce their incarceration sentence by almost one (1) year.