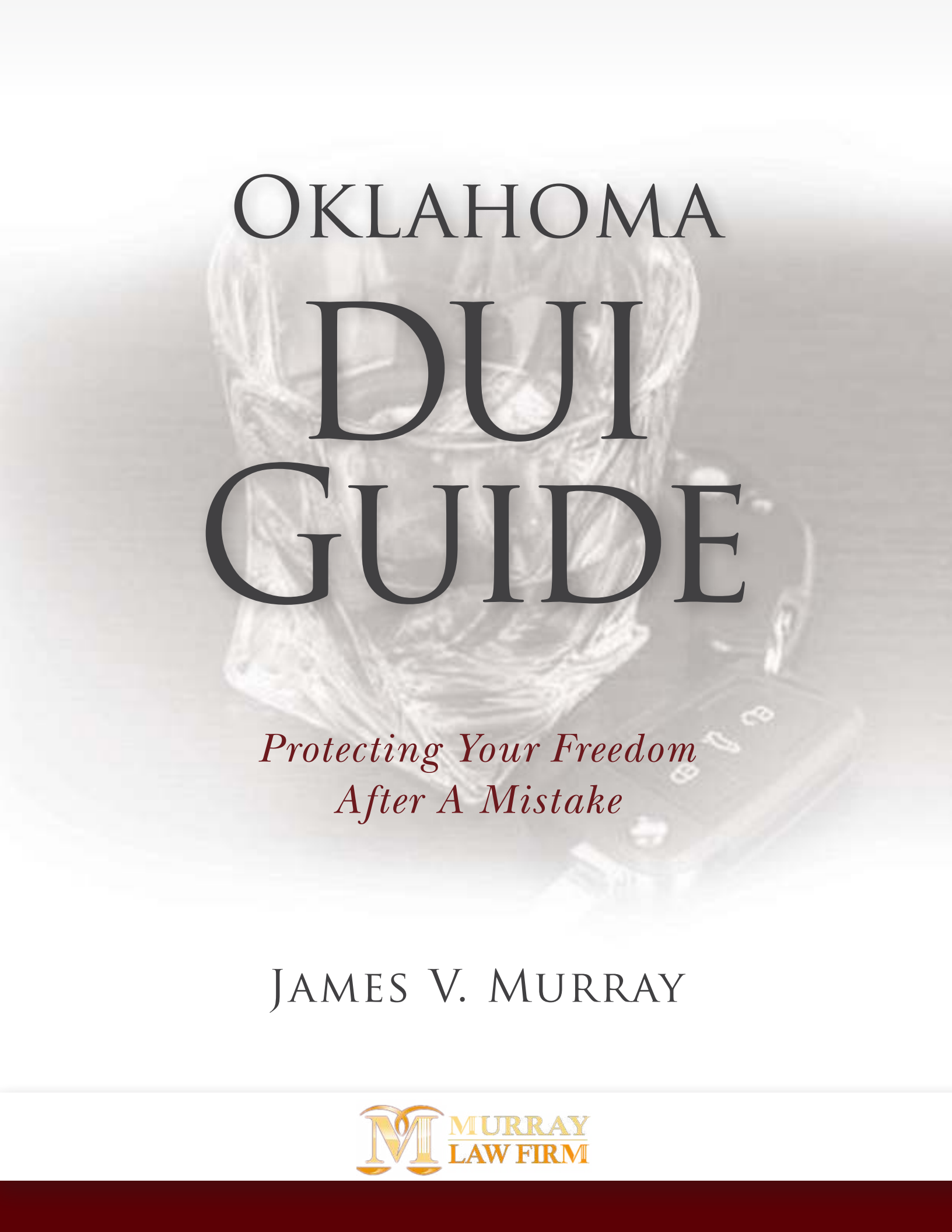


OKLAHOMA DUI GUIDE

*Protecting Your Freedom
After A Mistake*

JAMES V. MURRAY





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If you have been charged with DUI in Oklahoma, you may be feeling panicked. It is a frightening situation and you have probably heard of the consequences. They can be severe and life-altering. If you want to minimize your penalties, you should hire an experienced Oklahoma DUI attorney.

At Murray Law Firm, you will be welcomed without judgment and be offered a free initial consultation. You don't have to pay for this charge for the rest of your life. Let our attorney James Murray defend your rights and fight for your justice.

DUI PENALTIES TO AVOID

There are two charges for drinking and driving; DUI which is driving under the influence, and DWI which is driving while impaired. Which one you will be charged with depends on your BAC or blood alcohol content. If you think that you can just have one drink then drive, know that you can still be charged with DWI. The legal limits are:

- » A BAC of 0.08% or more if you are 21 years or older (you'll be charged with DUI)
- » Any amount of alcohol in the bloodstream for someone under 21 (you'll be charged with DUI)
- » A BAC of 0.04% for someone with a Commercial Driver's License (you'll be charged with DUI)
- » A BAC between 0.05% and 0.08% (you'll be charged with DWI)

If you were pulled over and you refuse to take a blood alcohol test, you will have your license revoked and you may be arrested. This is going to happen to every person who refuses a test. It is illegal to refuse to take a test because in Oklahoma, you are giving implied consent to taking a test just by getting behind the wheel of a car. It is always better to take the test and have your Oklahoma

DUI attorney fight the charge later. It is unwise to refuse the test if you have not been drinking at all. What would have been a misunderstanding will turn into a criminal charge. If you want to challenge the revocation, you must request an Administrative hearing within 15 days and you may be able to get your license back. Your attorney can help you with that.

Here is a chart you can use to determine how long your license may be taken away:

	BAC between 0.05% and 0.08%	BAC of 0.08% or over	Under 21 years old with any BAC
First Offense	30 day suspension	180 day suspension	6 month suspension
Second Offense	6 month suspension	1 year suspension (w/ 1 prior DUI conviction)	1 year suspension
Third Offense	1 year suspension	3 year suspension (w/ 2 prior DUI convictions)	36 month suspension

On top of the penalties of having your license revoked, you will have to have criminal penalties. If you are convicted of DWI, you may have to pay a fine that will be \$100-\$500 as well as spending up to 6 months in prison.

For DUIs there are three tiers to which you can face criminal penalties:

1. First offenders may face a misdemeanor charge, pay a fine of up to \$1,000, and spend from 10 days up to a year in prison.
2. Second offenders are looking at a felony charge with a fine of up to \$5,000, and from one to seven years in prison.
3. Third time offenders (and any subsequent offenders) face a felony charge with a fine of up to \$5,000, as well as prison time anywhere from one to ten years.

If the idea of facing any of these penalties scares you, please consider calling an experienced Oklahoma DUI attorney. This is not something that you want to

try to handle on your own. Your livelihood is on the line and you don't want to have this charge follow you around for the rest of your life.

WHAT AN ATTORNEY CAN DO FOR YOU

In Oklahoma, there is no law prohibiting the reduction of a DUI charge. That is news that should make you feel very relieved because it may be able to keep you from potentially being charged with a felony if you are a multiple offender. An attorney will work closely with you to see if your charge can be reduced and to what extent you can have it reduced. It may be your saving grace to have an attorney on your side.



FREQUENTLY ASKED QUESTIONS | OKLAHOMA DUI GUIDE

How do I choose a DUI attorney?

It's clear in Oklahoma that the system is set up where you're going to have to hire a lawyer for your driving under the influence charge. Selecting a good DUI lawyer is important. You need to find a lawyer who has experience in DUI law. They have to be in court on a regular basis. They have to have been successful in dealing with license issues as well as suppressing evidence which lead to a DUI arrest.

You need to find a lawyer that you like, a lawyer who answers your questions, a lawyer who's available for you or their staff is available for you when you have issues. Choose a lawyer who's going to be there for you in a year when you come off probation to help you get everything off your record and help you be able to have a clean criminal record. As you go to interviews for jobs, any type of

criminal record might be the difference between getting the job and not getting the job. There's nothing more frustrating than to hire a lawyer and a year later you can't find that lawyer to help you get these things off your record. Make sure you have a lawyer with a good track record in the community where you are charged in. Make sure that he has staff that can adequately advise you and take care of you.

Do I really need a DUI attorney?

All kinds of people say, "I'm guilty. Can I just plead guilty in my DUI and start on probation?" The answer is no. Under the constitution of the United States, you're going to have to have an attorney because you can be sentenced up to one year in jail. If you can't afford one because you don't have a job, and you're not a student, and you're just plain broke, you might be able to qualify for a court-appointed attorney. If you can't get a court-appointed attorney, you need to hire an attorney to represent you.

An experienced attorney can help you a lot. First of all, our job is to make sure that the law enforcement did their job. We'll ask for a dash cam to make sure they stopped you with probable cause, and that they did everything appropriate. We have an administrative hearing where we can talk. We can ask the officer questions.

We can make sure that he did his job. We can verify whether or not the breathalyzer was used correctly. There are certain procedures and protocols they have to use to run the breathalyzer. If they didn't do it, then we can maybe get your license back with the administrative hearing before the Department of Public Safety.

On the criminal side of the case, an experienced lawyer is helpful because we know the judges. We know the lawyers in the district attorney's office. We know what's a reasonable offer and what's not a reasonable offer. We know that situations arise where you have questions. You can call up and ask, "What about this? I can't make court today. What do I do?" There are all sorts of things that happen during the time before you enter your plea and while you're on probation.

We have the experience. We've been here for over 34 years. We handle these cases regularly. We're a phone call away. When you call, we can give you answers, and we can give you correct answers. To go with an inexperienced lawyer could be problematic for you down the road if they don't have all the right answers.

What is an aggravated DUI?

An aggravated DUI is a DUI that happens when your breath alcohol content is measured at 0.15 or more. You measure your BAC with what they call a breathalyzer. They take you to the police station; you blow into this machine. It quantifies your alcohol in your breath. You also get an aggravated DUI if you refuse to take the breathalyzer test. It's a no-win situation if you're seriously are impaired. A lot of times, it pays to take the test as opposed not to take the test.

What are the charges for driving under the influence?

In Oklahoma, there are three different charges for driving under the influence in a vehicle. The first one is a DWI. That's with a breath alcohol content or BAC of 0.08 or less. A DUI is when your BAC is 0.08 to 0.14. If your BAC is 0.15 and up, it's an aggravated DUI. In the DWI, which is less than 0.08, you won't lose your license. You'll have to be on probation, and do a lot of education, and some community service to pay court costs, fines, and probation.

If it's a DUI, you will have to have a breath interlock device for your car. You won't be able to drive unless you have it. What that does is, you blow into it every time you start the car. If there's any alcohol on your breath, it won't start. It will record that you failed the test. Every month you have to download the results, and the Department of Public Safety sees that. You have to have a breath interlock device in your car for six months if it's a DUI. If it's an aggravated DUI with BAC of 0.15 or more, it's a 24-month long program you have with a breath interlock device.

Those are the three charges dealing with alcohol. Most of them on your first offense will be a deferred sentence. That means it will be dismissed and expunged from your record after you've completed everything in your probation

including all the court costs, fines, and probationary fees. We can get it off your record, so it won't be on the record people can see on the computer. A year after you have it dismissed, if you have no other offenses, you can get the OSPI record sealed, so no one can even know you were arrested for a DUI.

Can I refuse a breathalyzer?

If you are asked to take a breathalyzer test in Oklahoma because the law enforcement suspects that you are impaired, and you refuse, then you will be charged with an aggravated DUI. You have no real way to defend it because you refused to take the test. If you do take the breathalyzer test and you think it's too high, you can always ask for a blood test. You have to take the state's test before you can ask for a blood test. Law enforcement will take you to the hospital and draw the blood. It takes two or three months to get the results back.



What is a drug DUI?

In Oklahoma, if you are charged with a drug DUI, more often than not, they're going to have to take you to the hospital for a blood test. Reason being is if you blew into a breathalyzer, you wouldn't show any alcohol because you're on some type of controlled dangerous substance. They'll send your information and your blood sample out to a lab. In probably two months or so, that would come back. If you showed any substances that you shouldn't have in your system in your system, then there's a chance you could be charged with a drug DUI.

After that, it's pretty much the same type of penalties and sentences and probation as a DUI. If it's your first offense, it will be a one-year deferred sentence. You'll have to do an evaluation. You'll have to do some alcohol/substance abuse course. They'll give you community service, and you'll have to pay court costs and fines.

It's a serious matter. Let's say that you have a prescription for a medication you're on at the time. That could play a part in it. We'd have to look at the facts. It's a case by case basis.

What if I caused a car accident while under the influence?

In Oklahoma, if you're charged with a DUI and you've been in a wreck, your charge depends on what the results of the wreck are. If you were driving under the influence in a wreck and you kill somebody, it could be misdemeanor manslaughter. It could be a serious case. It will change your life forever.

If there were no serious injuries, then you'll just be charged with a DUI involved with a wreck. You've got to make sure that restitution is paid, but definitely, the more serious issue is if you really seriously injure somebody, the consequences are going to be serious. It probably won't be a deferred sentence. It will probably be a battle on our hands. We might even have to consider going to trial.

How much are DUI court costs?

If you're charged and plead guilty to a DUI or an aggravated DUI in Oklahoma, you're going to have to pay a lot of court costs, fines, and probationary fees. It sneaks up on you pretty quickly. It's a lot of money. If you get close to that time of coming off probation, and they're not paid, the district attorney will file an application to accelerate. What that means is they're going to want to make it a conviction because you haven't paid all your court costs and fines.

What I suggest you always do is if you can't pay the amount that you've agreed to pay with the county court clerk is pay something, even if it's \$5 or \$10 a month. Pay every month. If you pay every month, you're showing the court that you do take it seriously, and you're doing all you can do get this thing resolved. You can probably get more time. If you just completely ignore it and don't pay anything, you're not giving the judge or district attorney any reason to work with you. Make every effort you can to pay something every month the whole time you're on probation.

Will I spend time in jail?

If you're charged with a DUI and arrested, you'll spend a night in jail. They want you to do that so you'll sober up before they let you go. Most of the time on a first or maybe even second DUI, you won't do any jail time. You'll do jail time however if there is any other crime committed with a DUI like if you hurt or kill somebody, or if you're involved in some type of a drug situation, you might do jail time. On your first alcohol offense, you will not do any more jail time than your initial night in jail.

What are the DUI penalties?

In Oklahoma, if it's your first offense with a DUI, it's going to be a one-year sentence or one-year jail, but most of the time it's deferred. You're going to have to do a drug and alcohol evaluation, an alcohol, drug, and substance abuse course, and 20 hours of community service.

You're going to have to pay court costs and fines. You're going to have to be on probation. You're going to have to pay the district attorney \$40 a month and the Oklahoma court services \$40 a month during probation. You're going to have to do a class called Victims' Impact. It's about mad mothers. You have to go and listen to how drunk driving changed their lives and their family's lives forever. It can be expensive. You have to pay for all those classes before you can take them.

If you don't pay the things you're supposed to, and do the things you're supposed to, the district attorney can move to file a motion to make this a conviction which would permanently be on your record. You really want to take care of business. I believe it's a mirror image of your life. If you take care of your responsibilities in this process, you're going to do well in life. It doesn't go away. Address it head on and resolve it.

What is probable cause?

In Oklahoma, officers have a right to stop you. They have a right search your car only if there's probable cause. Probable cause is something that's interesting. It never seems to be as simple as you think it is. You have a right to refuse them

to search your car; however, they can get a warrant. You'll sit and wait for the warrant to come.

If they have reasonable suspicion that you are in a drug-related event, they ask for the drug dog to come. All of the cases though need to be reviewed by an attorney. You should hire an attorney immediately if you ever have a situation where you believe there's an illegal search or seizure. Also, you should always hire a lawyer when you have a criminal action

How does the DUI trial process work?

The normal DUI case doesn't take a long time to resolve; probably six months. The problem is you're on probation for a year. It goes on for a year after you enter a plea. The other issues is if you were really adamant that you weren't driving while impaired, and you want a jury trial, that could take a year to a year and a half. Normally, with first offenses, we know what the recommendation is going to be. Since you're offered a deferred sentence, it's awfully hard to risk a jury trial when this will be off your record in a year. The amount of time your case lasts just depends on whether you want to fight it or not.

What if I get a DUI with a child in the car?

If you are drinking and driving and you have children in the car, then there are a lot of things that are going to happen. One, you're going to be charged with a DUI. You'll also be charged with endangering a child. There's a good chance the Department of Human Services will come in and take the child away from you. Either call another parent, call a family, or put the child in foster care.

It's a dangerous situation and it will not be taken lightly by the courts. They want to protect children. The bigger situation will probably be with the Department of Human Services and the custody and placement of your child.

How long does a DUI stay on my record?

When you're charged and enter a plea to a DUI in Oklahoma, you're more likely than not going to be on probation for one year if it's your first offense. After one

year, if everything is completed, all your requirements and terms and conditions of probation are finished, all your money's paid, and all your classwork's done, it will be dismissed and expunged from your record. That's called the 991. What that means, it's taken off of OSCN.net, which is the Oklahoma Supreme Courts Network, and people can't search your name and see your name on the public information.

A year after you've been dismissed and expunged from the Oklahoma State Supreme Court Network, you can file what they call a Section 18 and 19, the sealing your record on the Oklahoma State Bureau of Investigation's record. That means your plea and your dismissal is sealed so no one can see it. If it's your first offense, it will be off your public record in a year after you enter a plea, and off of the OSBI record after one year after it's been removed from the public record.



Can I lose my license for DUI?

The first question everybody always asks when they get a DUI is, "Am I going to lose my license?" There are a couple ways you can look at this. One, you could potentially lose your license. If your BAC was 0.08 to 0.14, you're going to lose it for six months. If it's 0.15 or more, you can lose it for two years.

However, you can ask for a modified license in which they put a breath interlock device in your car during those periods of time. Then you can drive as long as you blow in the interlock device before you start the car and have no BAC. If you refuse to take the test when you're asked to by an officer after initially being pulled over, then you're immediately going to lose your license for two years. You're not going to be able to drive for two years or you'll have to use a breath interlock device to drive for those two years.

You may be wondering if you can drive a company vehicle or will you have to put the interlock device in your company car. The answer is no. You have to put the breath interlock device into your personal car. Then you need to advise your employer that you have a DUI. He'll have to send a letter to the Department of

Public Safety saying that he agrees to let you drive his car even though you have a DUI. That's how you get around that.

That's the worst-case scenario. The best-case scenario is that we find out from the dash cam, or from the investigative officer's report that they didn't follow the procedures. That the breathalyzer was administered to you inappropriately and not by protocol, or that the officer stopped you without probable cause. If those things happen, then we can keep your license. It's difficult to win on those cases, but we have done it.

What if this is my second DUI charge?

In Oklahoma, when you're charged with your second DUI, it depends on what jurisdiction you get charged in. A lot of times, with your first DUI, you would have gotten a deferred sentence. For the second DUI, you're probably going to get a conviction that we will not be able to take off your record. It will be on your record permanently.

Anytime that you get another DUI, it's going to be a felony DUI. The second DUI is going to be a conviction. You might have some jail time, but not a lot. It's definitely becoming more serious and signals that you have a problem.

What if this is my third DUI charge?

In Oklahoma, if you get charged with a third DUI, and all the DUIs have been within 10 years, there's a very good chance that that's going to be a felony and a very good chance you might have some jail time, or you might be ordered to go to inpatient treatment or some significant alcohol rehab.

Can I get my DUI expunged?

In Oklahoma, if you have a DUI charge, and it's your first offense, and it's been dismissed from the Oklahoma Supreme Court Network, then it can be expunged at that point. You won't be able to see it on the public network anymore. A year after that, you can do what they call a Section 18/19 Expungement where you can have your dismissal and your plea sealed from the Oklahoma State Bureau of Investigation Network. When someone does a deep, dark background check, it won't show up.

CALL OUR OFFICE TODAY

If you are worried about your DUI or DWI charge in Oklahoma, please know that you don't have to stand back and let yourself be punished. You can take action and fight the charges and minimize any potential penalties. With the help of an Oklahoma DUI attorney, you can make an appeal to get your license back. This is an immense help if you are concerned that you won't be able to provide for your family. Not having a license makes it very hard to do that and our attorney James Murray at Murray Law Firm is equipped to handle the toughest cases. Please call our office today for a free confidential consultation.



ABOUT THE AUTHOR

When James Murray was 15 years old, he watched President Richard Nixon's Watergate scandal unfold before him. The corruption displayed by the White House and in politics in general during that time inspired James to pursue law so that he could make a positive change and a real difference in the country. To reach his goal, he attended undergrad — and later, law school — at the University of Oklahoma. In 1985,

James was admitted to the Oklahoma Bar Association and his career as an attorney began.

As a personal injury lawyer, Attorney Murray enjoys helping people. "It's easily the most satisfying part of my job and it's what drives me to come in to work every day. Those whom I help are real people with real problems, not walking ATMs that come in to my office to spit out money for my services and then leave. In personal injury, it's important to remember that clients are more than just clients. I always make sure that I do.

"Through my cases, I can truly help the people who need it. For instance, when a car wreck killed the parents of two young children, our attorneys were able to settle the case on behalf of the now orphaned children for a figure in the mid-seven figures. No amount of money can bring those children their parents

back. However, through the work we did, we were able to ensure that the children will be taken care of financially for the rest of their lives.

“When I’m not in the office, I spend time with my wife, who I love very much, and volunteer at my church. I also work extensively with the Boy Scouts of America because I truly believe in the importance of instilling great values in our nation’s young men. It’s no wonder that all six of my sons are Eagle Scouts. Between the six of them, I have 11 wonderful grandchildren, and I watch with pride as my sons pass those same values on to them.”

Education

- » JD - University of Oklahoma
- » BS - Oklahoma State University, double major in Accounting and Agriculture Economics

Professional Association & Membership

- » Oklahoma Bar Association

Community Involvement

- » 2000-2007 President of Oklahoma Assisted Technology - Non-Profit
- » Scoutmaster Troop 822 - current
- » Chairman of the BSA-LDS Oklahoma Encampment 1997 and 2007
- » Eagle Scout & Duty to God Award
- » Past President of Payne County Bar Association
- » Chairman of the Law Day Committee of the Payne County Bar Association

