

ALBUQUERQUE CRIMINAL LAWYER BLOG

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Repeat DWI/DUI Offenders Face Certain Jail Time: How Much is Up to Them

The consequences for DWI/DUI conviction are severe. For repeat offenders, a conviction results in certain jail time. How much jail time is largely dependent upon the behavior of the DWI/DUI offender following arrest.

One does not have to look far to figure out why the consequences for repeat DWI/DUI offenders are growing in severity. Just today, the Albuquerque Journal had an article listing several tragic DWI/DUI accidents that have occurred since February. Of the 6 DWI/DUI accidents listed, 4 involved deaths of innocent victims. Keep in mind, the article only listed accidents since February of this year. Judges and prosecutors have far longer memories of the many tragic and often fatal DWI/DUI accidents that occur each year in New Mexico.

Neither judges nor prosecutors have much patience for repeat offenders in this environment. As a result, repeat offenders have an uphill battle at sentencing. However, there are several things that can be done to help one's cause when facing this situation.

First, STOP DRINKING. PERIOD. This is not optional. Clients say all the time that they do not have a drinking problem. Trust me when I tell you the judge and prosecutor disagree. A first time DWI/DUI indicates a drinking problem. A subsequent offense indicates a serious problem. The worst thing a repeat offender can do for his or her cause is to walk into court and deny a drinking problem.

The remaining steps all surround the first. It is easy for a defendant to walk into court and tell the judge that he or she has stopped drinking. After all, how is the judge to know any better? Unfortunately for the repeat offender, the presumptions are not on his or her side. Once convicted, there are no more presumptions in your favor. This seems too obvious to say but some believe that it is up to the prosecutor to prove they are lying. Not so, the repeat offender must prove that he or she is not.

The only way to do this is through careful documentation. Therefore, a repeat offender should at a minimum begin Alcoholics Anonymous (AA). Frequent attendance is essential, at least 2 -3 times per week. To document attendance, take a sign in sheet which can be obtained from the court or probation/pretrial services. Some AA facilities may have these on hand since many attendees are there for this very reason.

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Beyond AA, a repeat offender should be in alcohol and/or drug counseling. Again, many protest that they do not have a drinking problem. In answer to this, please review the paragraphs above. A good counselor can be very beneficial at sentencing. A good counselor will provide thorough documentation of your problem as well as your progress. In addition, a good counselor will document many other aspects of your life, employment, family, character and general history that could be very helpful in minimizing your jail time. Most important, counseling shows the judge that you are serious about addressing your problem.

This gets back to the initial point of this whole exercise. A second DWI/DUI carries a mandatory 4 days of jail, a third 30 days, a fourth 6 months. After that, it gets much worse. Now for the bad news, these are mandatory minimums and judges across New Mexico are growing increasingly reluctant to allow the mandatory minimums. This is why AA and counseling from the date of arrest, not 3 days before sentencing, is so important. Judges have a great deal of latitude in sentencing between the minimum and maximum. Do yourself a favor and give the judge good reason to lean toward the minimum.

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