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First Time DWI: What to Expect in New Mexico?

DWI/DUI is taken very seriously in New Mexico. Strict DWI/DUI enforcement is intended to deter drunk driving. As such, the laws are very strictly enforced throughout New Mexico and the consequences of a DWI/DUI conviction can be severe. In fact, Albuquerque police go even further arresting and charging people for DWI even when they have not been driving.

Due to the strict enforcement of DWI/DUI laws, people arrested for a 1st time DWI first want to know whether they will be going to jail. The next question often relates to their driver's license. Finally, they typically want or need to know the other penalties and fines associated with DWI/DUI in New Mexico.

For a first time offender, the worst case outcome is generally sentencing to the First Offender Program. As part of the First Offender Program, the defendant's sentencing is deferred for one year. The defendant is placed on supervised probation during this one year period. In addition, following conditions are imposed on the defendant as part of the First Offender Program:

1. DWI School,
2. Alcohol and Drug Abuse Screening,
3. Counseling and Treatment if recommended following screening,
4. Attendance of the Victim Impact Panel,
5. Random drug and alcohol testing if deemed necessary by probation following screening,
6. No consumption or possession of alcohol or illegal drugs,
7. Installation of an ignition interlock device on the defendant's vehicle for 1 year (this allows the defendant to continue to drive while on probation),
8. Community service which is typically 24 hours,
9. Payment of Court Costs, and
10. Payment of probation costs (these are often waived by the Court).

Main Office:
400 Gold Ave. SW
Suite 500
Albuquerque, NM 87102
(505) 242-5958

<http://www.albuquerquecriminallawyerblog.com/>

This is the standard sentence for a simple first time DWI/DUI in New Mexico. This sentence is imposed whether or not the defendant enters a plea or loses at trial. Thus, many simple first DWI's will go to trial since there is no difference in the penalties between a conviction on a plea versus conviction at trial.

The decision of whether or not to go to trial is made more difficult in an Aggravated DWI case. Conviction on an Aggravated DWI carries mandatory 48 hour jail time. Aggravated DWI is charged in cases where the driver's breath alcohol score is .16 or higher, the driver refused the breath alcohol test, or there was an accident involving alcohol.

Because of the mandatory 48 jail time, many DWI defendants do not want to risk a conviction of Aggravated DWI at trial. The result is that many, if not most, Aggravated DWI cases plea to a simple first DWI prior to trial which allows the defendant to enter the First Offender Program.

So getting back to the opening, the question is whether a first time DWI defendant will go to jail, and whether he or she will be able to drive following conviction on a DWI. The answer to the first question is that it is very unlikely under the current state of New Mexico law that a first time DWI defendant will go to jail unless he or she is convicted on an Aggravated DWI. The answer to the second question is yes, the defendant will be allowed to drive with an interlock license.

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