



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 224
[2013 Assembly Bill 180]

OWI Penalties and Testing

2013 Wisconsin Act 224 makes changes to the penalties for conviction of seventh or subsequent driving under the influence of an intoxicant or other drug (OWI) and conviction of OWI causing injury. In addition, the Act allows additional types of medical professionals to draw blood for alcohol or controlled substance testing.

Seventh or Subsequent OWI

Under state law, a person who commits a seventh, eighth, or ninth OWI offense is guilty of a Class G felony, the penalty for which is a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both. The confinement portion of a bifurcated sentence imposed on such person must be not less than three years. A person who commits a 10th or subsequent OWI offense is guilty of a Class F felony, the penalty for which is a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and six months, or both. The confinement portion of a bifurcated sentence imposed on such person must be not less than four years. In *State v. Williams*, the Wisconsin Court of Appeals held that a bifurcated sentence for a seventh OWI offense was not mandatory. [2013 WI App 74 (Ct. App. 2013).]

Act 224 **requires** a court to impose a bifurcated sentence for a seventh, eighth, ninth, 10th, or subsequent OWI offense. For a seventh, eighth, or ninth offense, the confinement portion of that sentence must be not less than three years. For a 10th or subsequent offense, the confinement portion of that sentence must be not less than four years.

OWI Causing Injury

Under prior law, any person who causes injury to another person by OWI generally must be fined not less than \$300 nor more than \$2,000 and **may** be imprisoned for not less than 30 days nor more than one year.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

Act 224 **requires** that any person who causes injury to another person by OWI generally be imprisoned for not less than 30 days nor more than one year. However, the Act provides that if the person injured was an adult who was in the vehicle operated by the person committing the OWI offense, the court may impose a sentence that is less than the minimum sentence if the court finds that the best interest of the community will be served and the public will not be harmed by the sentence, and the court places the reasons for imposing a sentence that is less than the minimum sentence on the record.

Further, Act 224 defines “injury,” for purposes of OWI offenses causing injury, as bodily injury that causes a laceration that requires stitches, staples, or a tissue adhesive; any fracture of a bone; a broken nose; a burn; a petechia; a temporary loss of consciousness, sight, or hearing; a concussion; or a loss or fracture of a tooth.

Drawing Blood for Testing

Under prior law, only a physician, registered nurse, medical technologist, physician assistant, or person acting under the direction of a physician could draw blood for alcohol or controlled substance testing.

Act 224 allows a phlebotomist or other medical professional who is authorized to draw blood, in addition to the other health care providers listed under prior law, to draw blood for alcohol or controlled substance testing.

Effective date: April 10, 2014. The Act’s provisions relating to sentencing and to the definition of “injury” first applied to violations committed or refusals occurring on April 10, 2014.

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