

THE UNAUTHORIZED GUIDE TO SURVIVING A DUI CHARGE

(What Most Lawyers Won't Tell You)

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Do I Really Need a Lawyer For a DUI?

If you're reading this right now, there's a good chance you just had one of the worst nights of your life. You were probably handcuffed, put in a police car, and spent several hours sitting in a jail cell wondering how things spiraled this quickly. Now you're trying to figure out what comes next.

A lot of people at this stage think the same things. Maybe you can go to court, explain what happened, and work something out. Maybe you were drinking and know it, so pleading guilty feels like the fastest and cheapest way to move on. That way of thinking gets people burned.

DUI cases are treated differently than almost any other misdemeanor. They're politically sensitive and aggressively prosecuted. Prosecutors are expected to be tough on DUIs. Legislators campaign on writing harsher DUI laws. Judges know these cases are watched closely. None of that means you can't fight your case, but it does mean there are a lot of forces pushing toward a conviction. Your lawyer is the only person whose job is to push back.

A DUI conviction can mean jail time, loss of your license, heavy fines, skyrocketing insurance premiums, and in some cases serious employment or security clearance consequences. With that much

on the line, trying to handle a DUI on your own is a gamble that usually doesn't pay off.

First Steps In A DUI Case

Bond Hearings

After a DUI arrest, you'll be taken before a magistrate who decides whether you're released and under what conditions. What happens here often depends on whether this is your first DUI or not.

For a first offense, most people are released on bond without much trouble. Once you get into second-offense territory, bond stops being automatic. In some courts, judges will require proof of treatment or alcohol monitoring before they'll even consider releasing someone charged with a second DUI.

For third or subsequent offenses, it's common for judges to require inpatient treatment before bond is even on the table. A good DUI lawyer should know the local treatment programs that courts actually respect and be able to guide you in the right direction.

If you're facing a second DUI or more, getting into treatment early is usually smart regardless of bond. Sometimes it's genuinely needed. Just as importantly, it shows the court you're taking the situation seriously.

SCRAM Bracelets and Alcohol Monitoring

Another option courts sometimes use is alcohol monitoring, such as SCRAM bracelets or handheld breath devices. These programs are intrusive and expensive, but they're usually far better than sitting in jail.

Arraignment

Your arraignment is usually your first scheduled court date and typically happens within a few weeks of arrest. You may hear it called a first appearance or determination of counsel.

This is not your trial. No witnesses testify. No evidence is argued. The court simply confirms the charge, who your lawyer is, and when you'll be back in court. In many jurisdictions, if you hire a lawyer before arraignment, you won't even be required to attend.

HOW DUI CASES ARE BUILT

Once a lawyer is involved, the first real step is discovery. This is where the prosecution is required to turn over the evidence they plan to use against you. In DUI cases, the most important evidence is often body camera footage and dash camera recordings. You'll also usually receive the officer's written reports and notes, along with any breath or blood test records.

Courts pay close attention to things like how you were driving, how you pulled over, whether there were signs of intoxication, and

how you performed on field sobriety tests. Many people walk away convinced they did fine on those tests. The video often disagrees.

Drug-Related DUI (DUI-D) Cases

Not all DUI cases involve alcohol. DUI-Drug cases are becoming more common, and they're very different animals. These cases are highly technical. They often involve blood testing, lab analysis, and officers who claim specialized training in drug detection, such as Drug Recognition Experts. Unlike alcohol cases, there is usually no number that automatically proves impairment. The prosecution has to stitch together observations, test results, and expert opinions.

That also means these cases often turn on whether proper procedures were followed, whether the science actually supports the officer's conclusions, and whether other explanations were ignored. DUI-D cases can look intimidating at first, but they are often more defensible than people expect. DUI cases don't move quickly. It's normal for weeks to pass before all evidence is available. Anyone promising fast answers is either inexperienced or not being honest.

COMMON DUI DEFENSE ISSUES

There is no single DUI defense, and anyone looking for a magic argument is going to be disappointed. Most DUI cases are won, or

at least improved, by carefully breaking down every stage of the investigation.

That process usually looks less like a dramatic courtroom moment and more like slow, methodical work. How was the car being driven? How did you respond to the officer's questions? Were your answers coherent? Did you follow instructions? Were there long stretches of the encounter where you showed no obvious signs of impairment at all?

In many cases, the evidence that cuts *against* impairment outweighs the evidence the officer points to in support of it. The job of a defense lawyer is to identify those moments, highlight them, and make sure they don't get glossed over.

That same careful parsing applies to the legal side of the case: whether the stop was lawful, whether field sobriety tests were administered correctly, whether chemical testing followed required procedures, and whether the evidence actually proves impairment beyond a reasonable doubt.

Field Sobriety Tests

Field sobriety tests are often crucial in DUI cases, especially when there is no breath or blood test. The most common are the walk-and-turn, the one-leg stand, and the horizontal gaze nystagmus test. These tests are based on standards promoted by the National Highway Traffic Safety Administration. In the real

world, instructions are rushed, conditions are less than ideal, and details that cut against impairment get overlooked. Those details matter, and they're where many cases are won or lost.

Hiring The Right Lawyer

Hiring a lawyer for a DUI isn't a formality. You should be speaking directly with the attorney who will handle your case and having a real conversation about the facts. Some lawyers focus almost entirely on DUIs. Others, like us, practice broader criminal defense. What matters most is that your lawyer knows the court you're in and is willing to do more than just go through the motions.

You should also understand how fees work, whether appeals are included, and whether you'll actually be able to reach your lawyer when questions come up. No honest lawyer can guarantee results, and anyone who tries should raise a red flag.

Trial or Plea?

Some DUI cases are best resolved through plea agreements with prosecutors. Others are worth fighting. In many cases, someone who goes to trial and loses receives the same sentence as someone who pleads guilty. When that's true, there may be very little downside to making the prosecution prove its case. We've seen cases that looked bad on paper fall apart once the evidence was tested. This isn't a decision to make on the morning of trial. It

should be made after reviewing the evidence and understanding the risks.

DUI Penalties & What To Expect

DUI penalties in Virginia are set by statute, but outcomes aren't purely mechanical. The law sets the floor and the ceiling. Where you land depends on the facts of your case, your history, and the court you're in.

A first-offense DUI is a Class 1 misdemeanor. On paper, the maximum punishment is up to 12 months in jail. In reality, most first-time offenders don't receive anything close to that. Jail isn't mandatory unless certain aggravating factors are present.

Mandatory jail time is triggered primarily by blood alcohol level and whether a minor was in the vehicle. A BAC of .15 to .20 carries a mandatory minimum of five days. A BAC of .21 or higher carries ten days. Time for a minor in the car stacks on top of that. The difference between a .14 and a .15 matters is huge because of the mandatory minimums.

Beyond jail, a first offense also involves license suspension, fines, court costs, ASAP, and usually an ignition interlock if you want to keep driving. Those consequences add up quickly.

Second and third offenses are a different world entirely. Mandatory jail applies regardless of BAC, and sentences escalate fast

depending on how recent the prior offense was. By a third offense, you're dealing with felony charges and mandatory incarceration measured in months, not days. At that point, this stops being an inconvenience and starts being a serious threat to your freedom. If you're facing a repeat DUI, this is not the place to cut corners or hope things sort themselves out.

Common Misconceptions

You Can Be Prosecuted For DUI Without Driving

You would think that the “driving” part of “drunk driving” would require actual driving. You would be wrong. In Virginia, you can be convicted of a DUI while sitting in your car, even with the engine off. Virginia defines “operation” so broadly that even sitting in the driver's seat with the keys in the ignition is enough.

.08 Isn't a Magic Number

Another common misconception is that below .08 is a safe cutoff. It isn't. Under Virginia law, intoxication means having consumed enough alcohol to affect a person's manner, disposition, speech, muscular movement, general appearance, or behavior so as to be apparent to observation. That means a conviction is possible even below .08.

“Baby DUI” and Underage Drivers

Virginia has a separate statute for drivers under 21. A blood alcohol concentration of .02 or higher creates a rebuttable presumption that the driver was under the influence. That doesn't mean automatic guilt, but it does that almost any alcohol in your system is enough for prosecution.

Breath or Blood Tests Are Not Required

Finally, scientific testing is not required for a conviction. DUI cases are often proven through officer observations and video evidence alone.

Final Thoughts

A DUI charge is stressful, but you're going to get through this. This guide only scratches the surface. If you've been charged with a DUI in Virginia Beach or anywhere in Hampton Roads, we offer free consultations and straightforward advice with no sales pitch, and no sugarcoating.

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