

An Overview of Texas DWI Law

In Texas, a DWI is committed when one operates a motor vehicle in a public place while intoxicated. A “public place” includes all those areas you would generally consider public and where a substantial portion of the public can access, such as roads, highways, schools, hospitals, apartment buildings, office buildings, and shopping centers. Areas that are not open to the general public—such as the driveway of a private residence—may not be considered “public places.” Texas courts have not agreed on what it means exactly to “operate” a motor vehicle. An experienced Bexar County DWI attorney can help you determine this.

To convict you for DWI, the government does not have to prove what your mental state was. Thus, defenses like insanity or lack of intent will not help you in DWI cases. The prosecutor can prove “intoxication” by showing that: (1) the defendant did not have the normal use of his or her mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of these substances, or any other substance into the body; or (2) the defendant had an “alcohol concentration” of 0.08 or more.

If you are convicted of a DWI, 1st Offense in Texas, you will face the following:

- **Fine** - A fine not to exceed \$2,000.
- **Jail** - Confinement in the County Jail for a term of not less the 72 hours nor more than 6 months. **Open Container** - If there was an open container of alcohol in your car when arrested, the minimum term of confinement is 6 days in the county jail.
- **Community Service** - Texas law mandates that a judge order not less than 24 hours and not more than 100 hours.

In most cases absent unusual facts, those convicted of a first offense DWI are granted community supervision or “probation” rather than jail time. The general length of DWI probation is 1-2 years. There are additional conditions of probation that are ordered by most courts, such as:

- **Drug/Alcohol Evaluation.** A person convicted of DWI must be evaluated for the potential of committing DWI in the future and/or a potential problem with alcohol or drug abuse.
- **Attend a DWI Education class** within 180 days from the date of conviction. Satisfaction of this requirement will help you avoid a one-year suspension of your driver’s license unless you were a minor (under 21 years old) at the time of the offense.
- **Attend a Victim Impact Panel.** Victims of drunk drivers tell their stories to show the impact of driving under the influence.
- **Work at a stable job, not violate any laws, notify the community supervision officer of any changes in your residence or employment, and report monthly.**
- **Pay a monthly supervisory fee. Perform a specified hours of community or volunteer service.**

If you are convicted, the Court will issue an Order Granting Probation, which contains the terms and conditions of your probation.

Bexar County criminal defense attorney Mario Del Prado is an experienced DWI lawyer who may be able to help you with your DWI case. Call today for a free consultation.