



TANNEHILL, CARMEAN & MCKENZIE
ATTORNEYS AT LAW ■ OXFORD, MS

A Complete Guide to Mississippi Drunk Driving Laws & Penalties



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Introduction

There are few crimes that carry such severe and long lasting implications as a DUI/OUI conviction.

Having an experienced attorney on your side can make the difference between huge legal expenses and a long drawn out penalty or an easy, more just ending, possibly even an acquittal.

Ask anyone who has been through the process and they will tell you to get an attorney and get one as soon as possible after your DUI/OUI arrest. Your future could depend upon it.

Here are just some of the penalties that can be possible with a DUI charge:

- Jail time
- Probation
- Alcohol rehabilitation program
- Exorbitant fines and fees
- Restitution
- Work programs
- Secured electronic confinement
- Installation of an ignition interlock device
- Drivers license suspension

At Tannehill, Carmean & McKenzie Attorneys at Law, you will find attorneys who are powerful advocates with the skills and experience to protect your rights and help you reach your legal goals in this difficult period.

We exist, first and foremost, to protect you and your family. We strive to promote a positive and secure environment for our clients.

We understand that these are stressful times with the recent pandemic and accompanying recession and we want to be there for you to help you take the actions necessary to protect yourself, your family, your rights and your assets.

You can trust us to always act in your best interests and to handle every aspect of your case with professionalism, ethics and transparency.

You can also count on us to deliver results. We realize that when it comes to criminal defense, it's results that matter and that is what we are best known for delivering.

When facing a DUI charge, many clients wonder how they should respond ... what their best course of action is.

They ask questions like:

- What are the DUI laws in Mississippi?
- What can I expect if I'm facing DUI charges? What are the penalties? What is the legal process?
- What are the basics that I really need to understand about Mississippi DUI law?
- Can DUI be expunged in Mississippi?
- Is Mississippi a zero tolerance state?

These are all very valid concerns – and we will address them all a little later in this guide.

But first, a quick word about the recent pandemic. As the more people get vaccinated and the pandemic draws to a close, you may be worried about backlogs in court cases.

You may be worried about how long your case is going to take and what you can expect as things move forward. **We are here to help you get through this uncertain period.**

We realize that even though many of us are staying home, life doesn't stop. There are concerns that must be dealt with and your rights and your family's welfare must be protected.

We are known for handling each contact and case with the utmost urgency and empathy. Our attorneys will address your legal issues and help you avoid the stress that can come with uncertainty about your case.

We created this specific guide to help you more easily get the answers you need to facing a DUI/OUI charge in Mississippi. So let's continue on ...



What You Need to Know About Mississippi Drunk Driving Laws & Penalties

Mississippi DUI (Driving Under the Influence) or OUI (Operating Under the Influence) laws prohibit a person from driving under any of the following circumstances or conditions:

- With a blood alcohol content (BAC) of .08% or greater (.04% or more if the driver is operating a commercial vehicle)
- While under the influence of any illegal drug or substance
- While under the influence of any drug or intoxicant
- While under the influence of intoxicating liquor

“Under the influence” is defined under Mississippi law as “a state of intoxication sufficient to lessen a person’s normal ability for clarity and control.”

Under Mississippi DUI law, a driver who has a BAC of .08% or more can be convicted of what is called a “per se DUI” regardless of their level of actual impairment.

The amount of alcohol required to reach a .08% BAC depends on a variety of factors including a person's weight, type of alcohol consumed and more.

What Are Mississippi's DUI Penalties?

Penalties in DUI cases are handed down by a judge. The judge's decision is limited by certain parameters, which include a driver's previous number of DUIs (including out of state convictions).

Also, first and second offense DUIs are considered misdemeanors and when determining whether an offense is a first or second offense only the last five years are looked at.

A third or subsequent DUI within a lifetime is considered a felony.

Penalties for a DUI charge include:

1st Offense:	2nd Offense:	3rd Offense:
Up to 48 hours in jail	5 days to 6 months in jail	1 to 5 years in jail
A fine of \$250 to \$1,000	\$600 to \$1,500 fine	\$2,000 to \$5,000 fine

Additional Penalties You Need to Know About:

- A second-offense DUI conviction requires the offender to complete 10 days to 6 months of community service
- A second or subsequent offense requires the convicted person to complete an in-depth diagnostic assessment for alcohol or drug abuse. The driver must then follow any recommendations, including a treatment program
- An offense that results in injury or death can be charged as an aggravated DUI. For each injury or death, the convicted driver can face five to 25 years in person

- An impaired driver who transports a passenger under 16 can be charged with a separate misdemeanor for child endangerment. For each child, there can be a separate charge that carries up to \$1,000 in fines and a maximum of 12 months in jail. If the child is killed or injured, the charge will be a felony and result in a \$10,000 fine and five to 25 years in prison

Driver's License Sanctions:

A DUI conviction and chemical test failure (a BAC of .08% or more) is reported to the Commissioner of Public Safety. The Commissioner then suspends the person's driver's license for:

- 120 days for a first offense
- 1 year for a second offense
- 3 years for a third offense, and
- 10 years for a fourth offense.

Note: Prior to license suspension, DUI offenders are permitted to apply for a restricted ignition interlock device (IID) license. With this license, applicants pay all applicable fees and install an IID on all vehicles that they drive. Any owned vehicles not equipped with an IID must be immobilized or impounded. A driver with an IID license can continue to drive the IID-equipped vehicle during the DUI license suspension.

All convicted drivers must complete the alcohol safety education program and all other court-ordered requirements to be eligible for license reinstatement.

What is Non-Adjudication?

This means that if you are facing a first-offense DUI, you may be eligible for a “non-adjudication” determination.

Under non-adjudication, the driver must complete an alcohol safety program, complete a 120-day ignition interlock device (IID) requirement, and pay various fines and fees.

If the driver successfully does all of these things and completes the program, the case will not result in the normal DUI penalties.

One thing to keep in mind here: a non-adjudication is counted as a prior DUI conviction if the driver is convicted in the future of another DUI offense.

Can I Refuse a Breath Test in Mississippi?

Mississippi's "implied consent" laws require all drivers who are lawfully arrested for driving under the influence to submit to a breath or blood test.

Drivers who refuse testing are subject to immediate license seizure and a 90-day license suspension.

A driver facing a DUI charge who has a prior refusal or DUI conviction on their record will have their license suspended for one year.

What if I'm Underage & Charged With DUI?

Drivers who are younger than 21 years old can be convicted of a separate offense for operating a vehicle with a BAC of .02% to .08%.

The first offense results in a \$250 fine and a 120-day license suspension and requires the offender to complete an alcohol safety program.

The driver may also have to attend a victim impact panel.

A third offense carries a \$1,000 fine, a two-year license suspension (or until age 21), and requires treatment.

Mississippi prohibits plea negotiations to reduce the penalties associated with a DUI. **However, non-adjudication and other possible agreements can help reduce DUI penalties.** For this reason, it is recommended that you have a good lawyer on your side.

Call (662) 337-7868 or [**click here**](#) to schedule a free consultation.



Drunk Driving Defense Tips

Tip #1 – Know Your Rights When It Comes to DUI/OUI Charges

The truth is law enforcement personnel working in the various departments across Oxford and Lafayette County, Mississippi, are always on the lookout for intoxicated drivers.

In their enthusiasm to keep the roads safe from impaired drivers, some police officers overstep their boundaries. While the intentions of the law and those who enforce it may be good, being arrested and convicted of driving under the influence can have a devastating impact.

That's why you need to be aware of your rights. For example, we have had success getting charges dismissed using defense strategies like the following:

- **Lack of probable cause** – With the exception of roadblocks and DUI checkpoints, a law enforcement officer must have probable cause to pull you over. If none existed, any other evidence they obtained after the stop could be ruled inadmissible.

- **Violation of your rights** – If you make a statement to the police, it can't be used as evidence against you if they failed to read you your Miranda rights.
- **Other explanations** – There might be other explanations for your behavior or appearance, such as a medical condition.
- **Faulty testing** – A police officer may not have been properly trained on the use of a breathalyzer machine, or the machine might have been poorly maintained.

■ **Tip #2 – Get a Good Lawyer on Your Side**

Find a good defense attorney – like those at Tannehill, Carmean & McKenzie Attorneys at Law – and work closely with him or her. You should also keep a detailed log of everything that is related to your case (we talk about this more in tip #3). The more information you can give your attorney, the better that attorney will be able to prove your case.

You may be wondering how the legal process works when it comes to facing a DUI charge?

The court process actually begins when the arresting officer places you under arrest for DUI or OUI.

After the arrest, an arrest report is completed and sent to the local district attorney's office. The arrest report will contain the charges to be brought against you, the defendant.

In most jurisdictions and most cases, the DUI complaint will be a misdemeanor, but this can vary based on the blood alcohol level of the defendant as well as any prior convictions for DUI/OUI.

If your arrest is filed as a misdemeanor there is no need for you to appear in court, your attorney can appear on your behalf. This allows you to go about your normal life without having to explain your absence from work or other obligations.

You will receive an initial order to appear in court or in front of a district justice where the charges against you are formally presented and you are given the opportunity to plead either guilty or not guilty.

This initial hearing is called an arraignment. This is often the point where special circumstances can be brought forward, or discrepancies in the arrest procedure can be cited. In some cases it will not be necessary to go past the arraignment stage as the case will be dismissed for a variety of reasons.

If you plead not guilty and your case is set for trial, you will receive a trial date from the district attorney.

At the trial, your attorney will negotiate on your behalf with the staff of the district attorney to get you the most favorable result.

The attorney will also determine if there are any other mitigating circumstances surrounding your arrest and case and will file any appropriate motions on your behalf.

Depending on the circumstances surrounding your case and any offers made by the district attorney, your attorney will then discuss the alternatives with you.

In some cases it is best to take the plea agreement, while in others it is better to go to trial with the case. Your attorney will do what is best for you, and will act only after consultation with you.

Contact us by calling (662) 337-7868 or **clicking here** to schedule a free consultation to learn more about how we can help you specifically.

Something else to keep in mind ... when selecting an attorney, look for one that can take advantage of the latest technology to stay in contact with you and to move your case forward despite court closings and social distancing requirements.

At Tannehill, Carmean & McKenzie Attorneys at Law we are able to use the latest video conferencing and live streaming technology. That means we can meet with you remotely – you won't have to travel to our office. Instead you can stay in the safety of your own home. We can also use this technology to continue working on your case and ensuring that it moves forward.

Tip #3 – Keep Good Records

As we mentioned in tip #2, keeping good records is very important. With any legal matter, but especially with a DUI, you should keep detailed records of everything – from why you were arrested to dealing with the police and everything else.

One way to do this is to start a diary where you record daily everything that has happened related to the accident.

You should write down things like your memory of what happened. If there was an accident you should be as detailed as you can possibly be about it. That means write down what the weather was like, what time the accident occurred, where you were headed, traffic conditions, what happened during the accident, what happened immediately after the accident and so on.

If your case goes to court it could be years before it is settled in court. Having a detailed diary will allow you to go back and refresh your memory on everything that occurred.

Tip #4 – It’s a Great Time to Seek Record Expungement

Any first offense misdemeanor in Mississippi can be expunged with the exception of traffic tickets. This includes a first offense DUI!

Even if you have two first-time misdemeanor arrests or convictions, you may be able to get them expunged if they resulted from the same set of facts.

In other words, if you’ve been convicted of a crime your case may still not be over!

At Tannehill, Carmean & McKenzie Attorneys at Law, we have extensive experience getting convictions overturned or expunged.

That’s why if you believe justice was not served in your case you need to give us a call. Our post-conviction team is dedicated to obtaining just relief for improper convictions.

Why choose us? We have extensive knowledge and experience in post-conviction litigation. We have also built a strong reputation for working closely with clients to create highly effective post-conviction arguments to present to appeals courts at the state and federal levels.

The bottom line is you can count on us to investigate your case and to then prepare motions seeking the best possible relief.

More About What We Do for You in Regards to Expungement and Post-Conviction Relief

We will take a comprehensive, in-depth look at your case, studying everything from the investigation to the pre-trial phase to the trial phase to the conviction.

During our investigation we will identify all appealable issues and then draft arguments on those issues to present in court. Depending on a variety of circumstances, we may be able to get you relief such as:

- Immediate release from incarceration
- A new trial
- Sentence reduction or modification
- Writ of habeas corpus
- New DNA testing
- Other appropriate measures

You Can Count on Us to Always Have Your Best Interests in Mind.

No matter what the odds, no matter how bleak things may look now, no matter how complex the issues involved, we are confident we can help you get the post-conviction relief you deserve.

Everyone deserves a second chance and we will fight hard to ensure that you get yours through post-conviction relief.

Just remember, a conviction doesn't have to be the end point of your journey. With our help you can fight on. We will help you find the best possible arguments and present them in the best possible way so that your chances of receiving post-conviction relief skyrocket.

We May Also Be Able to Successfully Lobby for Expungement of Your Criminal Records

Expungement is a legal term that refers to when your conviction is erased by the court making your records not accessible through state or federal repositories.

The expungement process deals with criminal charges but is actually civil in nature. The process involves a petitioner asking the courts to declare his or her records expunged.

When records are expunged that means they won't show up on background checks conducted by employers, landlords and others. This can be very advantageous considering the competition for good jobs, for good housing and for admittance to good schools.

Now is a particularly good time to seek record expunction and get a clean record because there will likely be a lot of job opportunities as we continue to recover from the pandemic and businesses start reopening and expanding their operations.



Facing Something as Serious as a DUI Charge Can Leave You Feeling Stressed, Anxious & Fearful ...

But don't let fear paralyze you from taking action. To ensure the best possible result in your case you need to start working immediately with a attorney like those at Tannehill, Carmean & McKenzie Attorneys at Law.

We have extensive experience defending against DUI charges and can help guide you through the process – so that instead of stressed, you feel calm and confident.

You can count on us to use everything at our disposal – from our knowledge of criminal defense to our passion for defending client's rights – to help you get the best possible legal outcome.



What Should You Look for When Choosing an Attorney to Represent You

When you are facing DUI, or other criminal charges, your selection of an attorney is one of the most important decisions you are going to make.

What should you look for? Key things include:

- **Experience** – Seasoned lawyers will know how to better deal with judges, other lawyers and insurance adjusters.
- **Expertise** – More specifically you want someone who has expertise in defending the charges you face. When you are facing DUI charges you don't want to put your fate into the hands of a "jack of all trades" you want someone who excels at defending your specific charges.
- **Reputation** – Lawyers are judged by clients, judges and peers. Look for one that has built a reputation for excellence.

- **Commitment** – Good lawyers are dedicated to their clients. They are tough negotiators and aggressive advocates who have one goal to get you the best possible outcome to your case.
- **Communication** – Look for an attorney that will keep you in the loop and explain everything so that you always know what exactly is happening. This is about your future, so you want to stay informed.

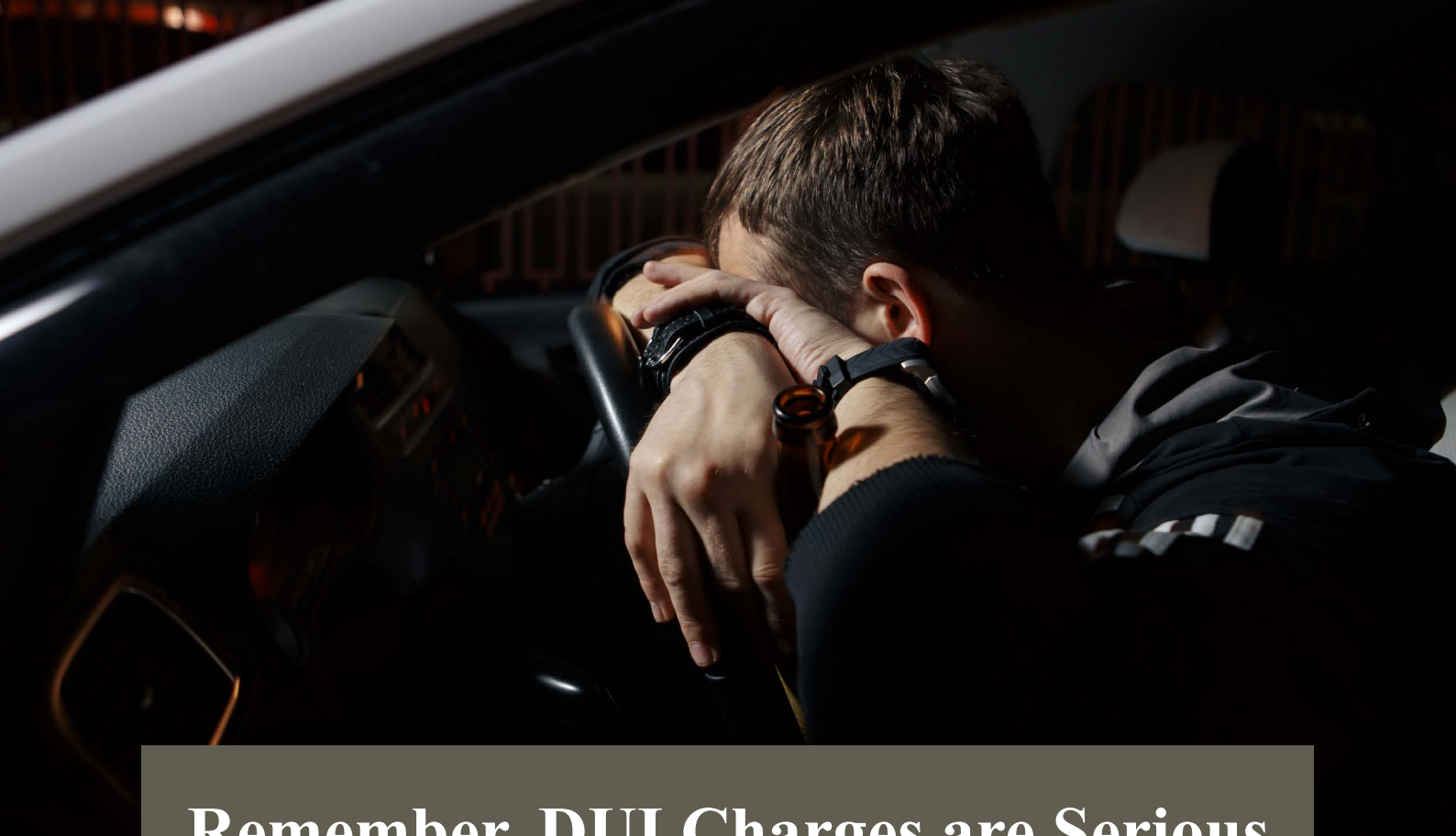
At Tannehill, Carmean & McKenzie Attorneys at Law, we have helped hundreds of people just like you facing criminal charges in Mississippi.

With consistently high case win rates, we are able to provide a level of confidence to our clients that other firms simply can't match.

When you are hunting for a defense attorney, you should always be aware of the past results of the attorney or law firm in question, and not be sold strictly on promises and sales pitches.

At Tannehill, Carmean & McKenzie Attorneys at Law, we have a track record of success that shows beyond a doubt that we always provide our clients with the best possible defense.

Contact us now to get the excellent representation you need to ensure the best possible outcome in your case.



Remember, DUI Charges are Serious

Those convicted may face both serious penalties including jail or prison time and harm to their reputation.

There is a lot of stigma attached in particular to DUI charges and people often assume that a person facing such charges is guilty regardless of the facts of the situation.

If you are facing DUI charges, you need someone in your corner who could defend you against these charges in court, protect your legal rights, and who can help protect your reputation from harm.

Call (662) 337-7868 or [click here](#) to schedule a free consultation.

We will guide you through the legal process, doing whatever we can to ease your frustration and provide you with a resolution that allows you to build a brighter future.

We are focused on providing you with a smart, reasonable and lasting legal solution. **We have the skills, resources and experience to ensure your best interests are represented.**

It doesn't matter what charges you face or the evidence against you ... we can help.

At Tannehill, Carmean & McKenzie Attorneys at Law, we take our role as your legal counselor seriously, creating solutions that work for you.

Our goal is to provide you with the legal solution that will give you the best possible chance at your best possible future.

We will investigate your case and identify all of the factors that might be relevant to your case. You can count on us to always have your best interests in mind.

That's why, if you are looking to protect your freedom, your money, your business, your assets and/or your property ... Tannehill, Carmean & McKenzie Attorneys at Law is the choice for you.

With us on your side you can count on:

- Authoritative, highly-effective legal counsel delivered in a timely manner and at a reasonable cost
- Strategic consultation and intelligent representation
- The peace of mind that comes with working with a trusted, knowledgeable professional



How to Find a Highly Qualified Attorney You Can Trust

If you have received a DUI/OU charge it is critical that you obtain legal representation as quickly as possible. Only with the help of experienced and qualified DUI legal representation can you hope to mitigate or even beat these charges.

The first thing you **SHOULD NOT** do is simply hire a firm you saw in a TV commercial or heard about in a radio ad.

Many of the biggest advertising firms are little more than “settlement mills.” A settlement mill is a firm that relies on heavy advertising as the lifeblood of their business and litigates a disproportionate amount of their cases. Such firms do not rely on current or former clients to refer cases via word-of-mouth and can thus afford to employ a mill mentality to their handling of cases.

The truth is “settlement mills” tend to leave money on the table at the time of settlement as they are more concerned with resolving a volume of cases each month to pay their expensive advertising budget.

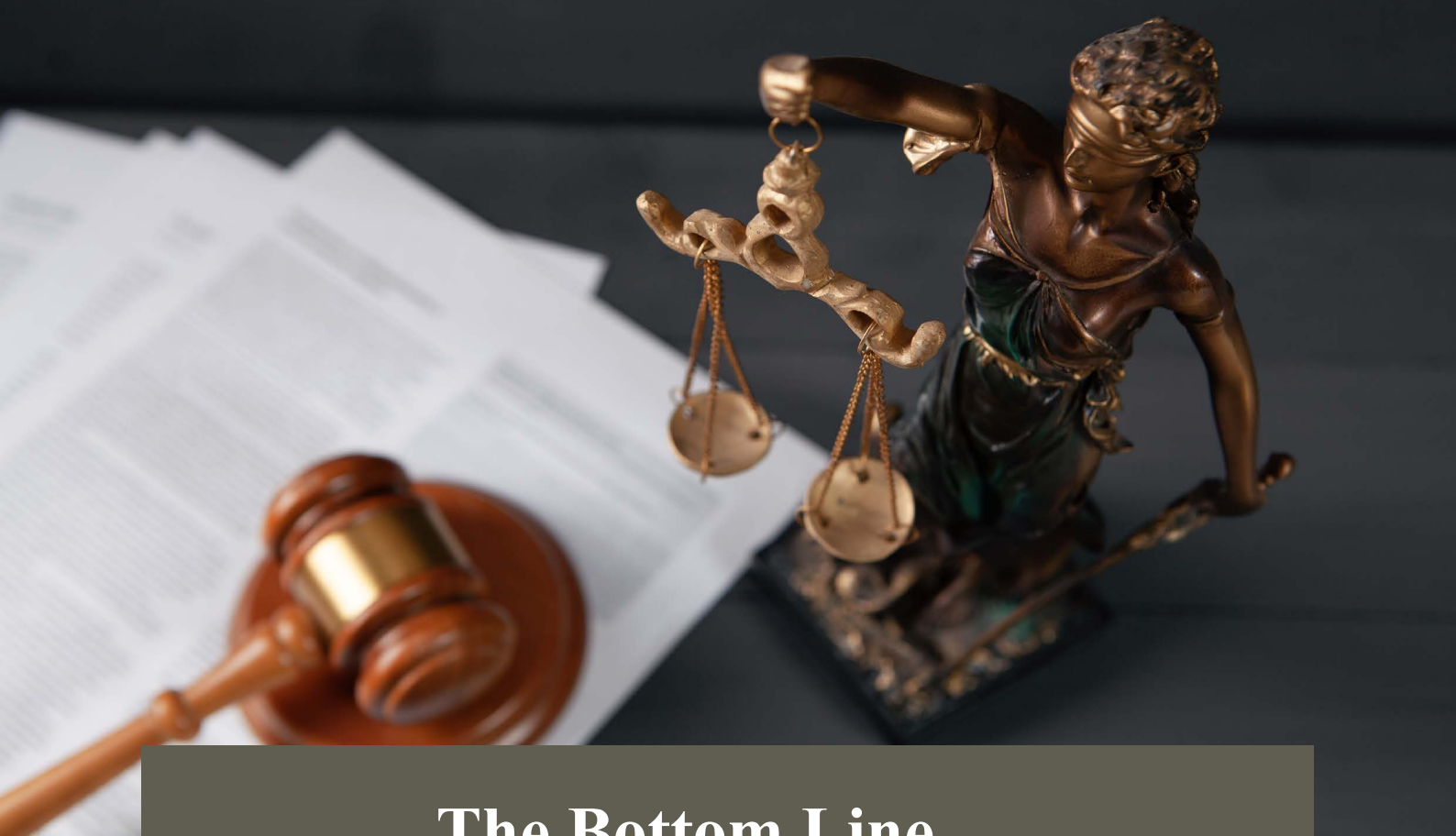
One more thing: You should also NOT try to represent yourself!

So what can you do to find an experienced attorney who will always put your best interests first?

We recommend contacting us at Tannehill, Carmean & McKenzie Attorneys at Law.

We have extensive experience in defending DUI charges. Our skilled and dedicated attorneys will fight to ensure that your rights are protected.

We will also always keep you in the loop as your case progresses. Call (662) 337-7868 or **click here** to schedule a free consultation.



The Bottom Line ...

Few things can be more emotionally and physically taxing than facing a DUI charge.

We hope that this guide has given you insight and direction on what to do and what not to do to ensure the best possible outcome in your case.

At Tannehill, Carmean & McKenzie Attorneys at Law we have built a strong reputation for making sure clients rights are protected when they face a DUI charge.

We will:

- Work closely with you to ensure your needs are met and your concerns addressed
- Rely on our extensive experience with DUI cases to help you get the best outcome
- Diligently strive to protect your rights

When you seek our help, you can expect straight talk and honest advice.

We take a practical, smart, common sense approach to handling DUI cases. We also explain everything you need to know to make informed decisions □ and we will tell you where you stand.

We work hard to protect your legal rights and pursue your objectives. Fully understanding that facing DUI charges can be an emotional time, we will treat you with the compassion and respect you deserve.

We also don't rest on our considerable laurels either. We are constantly evolving and growing and you can count on us to have your best legal interest in mind.

We will also take advantage of the latest technological advances to make it as easy and safe as possible for you to consult with your attorney and move your case forward.



The Next Step ...

The key to weathering any storm is to first get informed so that you can take the best action moving forward.

Contact us today to schedule a free consultation and to learn much more about how we can help you with your DUI case.

Don't risk making mistakes or enduring unnecessary, costly delays – talk to Tannehill, Carmean & McKenzie Attorneys at Law by calling (662) 337-7868 or **clicking here** to schedule a free consultation.

We understand that going through a DUI case can be a very traumatic experience. We will guide you through the legal process, doing whatever we can to ease your frustration and provide you with a resolution that allows you to build a brighter future.

We are focused on providing you with a smart, reasonable and lasting legal solution. **We have the skills, resources and experience to ensure your best interests are represented.**



At Tannehill, Carmean & McKenzie Attorneys at Law, we take our role as your legal counselor seriously, creating solutions that work both in the immediate months after your arrest and in the years ahead.

Our goal is to provide you with the legal solution that will give you the best possible chance at your best possible future.

Whatever your situation, you need a thoughtful, zealous advocate in your corner.

We will provide you with a free consultation and discuss your options with you. We will then strive to protect you and your family. Let Tannehill, Carmean & McKenzie Attorneys at Law provide you with the experienced legal representation you need.

We will use our vast knowledge and experience to protect your present and future welfare. **The first step is to schedule a meeting with us to learn more about how we can help you.**

Call (662) 337-7868 or **click here** to schedule a free consultation.

We will investigate your case and identify all of the factors that might be relevant to your case. You can count on us to always have your best interests in mind.

That's why, if you are looking to protect your freedom, your money, your business, your assets and/or your property ... Tannehill, Carmean & McKenzie Attorneys at Law is the choice for you.

With us on your side you can count on:

- Authoritative, highly-effective legal counsel delivered in a timely manner and at a reasonable cost

- Strategic consultation and intelligent representation
- The peace of mind that comes with working with a trusted, knowledgeable professional

We know what it takes to win. In addition, our office has the resources to take your case as far as it needs to go - including trial or appeal when necessary.

An intelligent criminal defense strategy requires both an in-depth knowledge of your rights that are protected by the law as well as the talent and experience to identify when violations to those rights have occurred. The attorney must then be able to use those instances to get a case dismissed or a charge reduced.

You can count on us to provide you with that intelligent criminal defense strategy. So don't wait, contact us now and ...

Get the legal advice you need to take the right next steps!