

First-time DWI: How Broome DA's office can reduce your charge with a 90-day ankle monitor

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First-time drunk driving offenders in Broome County could have a chance to avoid a criminal record and reduce their charges — as long they don't mind wearing an ankle monitor for 90 days.

Launched in January by the Broome County District Attorney's Office, the voluntary program includes alcohol-related counseling and crime victim impact panel sessions while the defendant wears a monitor for alcohol intake.

The program is available only to those charged with misdemeanor driving while intoxicated — their first alcohol offense — with no crashes, fatalities or reckless driving involved.

As long as the person doesn't drink alcohol for 90 days and completes the program's requirements, prosecutors will reduce the DWI misdemeanor charge to a violation of driving while ability impaired.

"We want to reduce the number of people that repeat their mistakes," said Broome County District Attorney Steve Cornwell. "If they don't want to participate, they can go through the regular criminal justice system. If they want to earn their way not to have a criminal record, they have to prove they can abstain from alcohol."

Twenty-two people have enrolled since the program began.

Defendants who participate will be required to pay \$8 per day over 90 days. The money goes to [SCRAM Systems](#), to cover the cost of its monitoring bracelet.

Prosecutors offer the 90-day program through a defense lawyer or public defender.

Michael Garzo, a Binghamton-based defense lawyer, called the program "a fair policy" that would especially benefit people who have otherwise never been in trouble.

"It gives them an opportunity to earn themselves a better disposition," Garzo said.

Driving while ability impaired carries the following penalties: Fines ranging from \$300 to \$500, up to 15 days in a county jail and a 90-day drivers license suspension. Jail time is not required; a person could also receive a one-year conditional discharge, which could bring more severe consequences if the defendant is re-arrested during that time.



A monitoring bracelet utilized as part of a 90-day drunk driving diversion program launched by the Broome County District Attorney's Office. (Photo: Anthony Borrelli / Staff Photo)

Reducing charges for first-time DWI arrests isn't uncommon for plea negotiations. Cornwell said the new program is designed to expedite the legal proceedings and root out possible repeat drunk driving offenders early. If a person fails the alcohol monitor during the 90 days, authorities could act and possibly pursue a stricter treatment program, rather than wait for that person's next arrest.

"If someone is unable to abstain from alcohol," Cornwell said, "we would certainly consider sending them to Drug Treatment Court ... that's more intensive."

According to a copy of the DA's office policy for the program, defendants could also be required to complete a traffic diversion program, plead to associated traffic tickets, perform community service, or some other program as part of a negotiated outcome based on the circumstances of each case.

Completing the 90-day program would guarantee the misdemeanor DWI gets reduced — it wouldn't stay on the person's criminal record — but the defendant would still be liable for court surcharges and fines. The violation would still be on the person's driving record with the state Department of Motor Vehicles.

Under New York State law, if a person gets charged with DWI and has a prior drunk driving conviction within the past 10 years, it's automatically elevated to a felony — up to four years in prison is possible.

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