

70 CONSEQUENCES OF AN ALABAMA DUI ARREST OR CONVICTION

Issue Date: 12/01/2022

This paper is published by the Law Office of Patrick Mahaney to inform the public about Alabama's DUI laws. It is not intended to advise anyone on a specific legal issue because different facts can change the application of the law in a particular case. Always consult an attorney before making any legal decision.

Patrick Mahaney, Attorney At Law • 8650 Minnie Brown Rd, Ste 150, Montgomery, AL 36117 • (334) 277-3974
www.mahaneylaw.com • office@mahaneylaw.com

Court-related Consequences

1. **Permanent arrest record** - DUI is the only motor vehicle offense that shows up on NCIC database (National Crime Information Center, Quantico, VA). This record is kept by the FBI.

2. **Convictions cannot be "expunged"** - Act 2021-482, eff. July 1, 2021, now allows for expungement of *most* misdemeanor convictions not involving a crime of violence. However, *specifically excluded* from Act 2021-482 are DUI and reckless driving offenses. A DUI conviction **cannot** be expunged.

3. **Mandatory probation** - If convicted, probation for any DUI conviction -misdemeanor or felony - is **required** and will last for two years for a misdemeanor DUI and five years for a felony DUI (fourth or subsequent offense within the past ten years). During the probationary period, the defendant is required to successfully complete the 'Court Referral Program' (alcohol and substance abuse prevention program) and may be required to undergo random alcohol and drug screening. In addition, while on probation, the defendant may be prohibited from the purchase, possession or consumption of any alcoholic beverage. Failure of an alcohol or drug screen or any part of the probationary sentence may result in probation revocation and imposition of the entire suspended jail sentence.

4. **Jail Sentence** - up to **12 months** in jail for **any** misdemeanor offense; up to **10 years** in prison for any **felony** DUI offense. **Mandatory** five (5) days jail sentence on second offense DUI and sixty (60) days jail sentence for third offense DUI - both mandatory sentences **automatically double** to ten (10) days and one hundred-twenty (120) days if convicted of "aggravated DUI." ["*Aggravated DUI*" is defined as operating a motor vehicle with a test result of 0.15% or greater.]

5. **Fines - Misdemeanors** - If convicted in a state court, a fine of not less than \$600 and not more than \$2100 plus court costs for first offense DUI; a fine of not less than \$1100 and not more than \$5100 plus court costs for second offense DUI; and a fine of not less than \$2100 and not more than \$10,100 plus court costs for third offense DUI. If convicted in a municipal court, the municipal court holds the statutory authority to impose of a fine of up to \$5,000 for any DUI offense.

6. **Fines - Felony** - A fine of not less than \$4100 and not more than \$10,100 plus court costs for felony DUI.

7. **Mandatory 'Court Referral Program'** - Every person in the state of Alabama convicted of an alcohol or drug related offense, including DUI, is required to attend a mandatory substance abuse course approved by the Administrative Office of Court. This requirement is commonly referred as the 'Court Referral Program.' Failure to attend the course or failure to satisfactorily complete the course will result in a delinquency report filed by the CRO to the sentencing court and the possibility of the defendant's probation revoked.



Patrick Mahaney, Attorney



Patrick Mahaney is a criminal defense attorney with offices in Montgomery, Alabama, concentrating his practice in defense of driving under the influence (DUI), drug possession/controlled substances violations, and driver license issues. Mr. Mahaney established his law office in July 2006 after completing five and half years of overseas service for the United States government. Mr. Mahaney has been licensed to practice law for over thirty-four years. Mr. Mahaney previously served twenty-two years as a state trooper with the Alabama Department of Public Safety. Mr. Mahaney received his B.A. degree from The Citadel in Charleston, S.C. and his law degree from Jones School of Law in Montgomery, Alabama.

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8. **Ignition Interlock Device (IID)** - Installation is **required** on all second offense DUI convictions within the past 10 years and all first offense DUI convictions where the test was **.15% or greater** or the defendant **refused to submit to breath testing**. The interlock device must be maintained on a designated vehicle for a period of not less than one year from the date of conviction. Failure to install the interlock device within 30 days of the court order will result in a delinquency report filed against the defendant and the possibility of the defendant's probation being revoked.

Under the state's current DUI statute, all DUI Pre-Trial Diversion or 'deferred adjudication' programs where the defendant is charged with a DUI offense are mandated to require the installation of an approved interlock device for a period of not less than six (6) months, or for the duration of the program, whichever is longer, upon the defendant's vehicle.

9. **Prior offenses** - Any prior DUI/DWI conviction - in or out of state - will be used for sentencing on any subsequent DUI offense, provided such conviction took

place within the **past ten years** from the date of the current offense.

10. **Second Offense DUI – Mandatory Suspension of Vehicle Registration** - A second (or subsequent) DUI during the past ten-year period requires the DUI offender to turn in all motor vehicle tags on **all** motor vehicles the defendant owns. Such vehicle registrations will be "suspended" by the Alabama Department of Revenue for the duration of the convicted offender's driver license suspension period, unless such action would impose an "undue hardship" on any individual – not including the convicted offender – who is completely dependent on the motor vehicle for necessities of life.

11. **No Plea to "Reckless Driving" is Available** - Under Alabama law, a DUI offense may not be pled to a lesser traffic offense, such as reckless driving. [See, *Code of Alabama*, 1975, section 32-5A-191 (I).] Every DUI case will be tried on the facts, or the defendant may enter a plea of guilty to the offense, but there is no plea available to a lesser included offense.

Alabama Driver License Consequences

12. **Mandatory License Suspension or Revocation** (duration of license removal varies, depending on prior DUI convictions and dates of those convictions)

- First offense conviction – 90 day suspension (which may be stayed if the convicted offender agrees to install ignition interlock for 90 days)
- Second offense conviction (within the past ten years) – one year revocation
- Third offense conviction (without regard to dates of the previous convictions) – three year revocation
- Fourth offense conviction (without regard to dates of the previous convictions) – five year revocation

Note: Driver license suspension or revocation periods may be reduced if an ignition interlock is installed on the convicted offender's vehicle for the duration of the suspension or revocation period.

13. **Mandatory SR-22 Certificate of Insurance** - Upon **any revocation order** issued by the Alabama Law Enforcement Agency, every person seeking re-licensing must submit certificate of SR-22 insurance and maintain the certificate on file with the Department for three (3) years. [See, Code section 32-7-31.] No driver license will be issued without the SR-22 insurance on file.



14. **Commercial driver's license will be "disqualified"** (suspended) for one year (first offense) or *lifetime* for any second lifetime DUI conviction or administrative license suspension action. This applies to *every* DUI arrest, and not necessarily as a consequence while operating a commercial vehicle - the CDL endorsement is prohibited for one year for first offense and lifetime for second offense.

15. **Immediate License Suspension** - Under the **Alabama Administrative License Suspension** (ALS) statute [Code section 32-5A-300 et. seq.], an Alabama driver license is confiscated by the arresting officer at the time of the DUI arrest **IF** the breath test result is .08% or greater or if the licensee refused to submit to breath testing. A temporary paper permit is issued valid for 45 days from the date of arrest. On the 45th day following arrest, if the proposed suspension action is not set aside, then the licensee will serve out the required period of suspension of license and will be denied the legal privilege to operate a motor vehicle. There is no "temporary" "restricted" "work permit" or other form of driver license available while under a suspension order issued under authority of the Alabama Administrative License Suspension Act.



The licensee will be deprived of the physical driver license until the DUI case is either dismissed, *not proessed*, or acquitted. If the licensee files a timely appeal for an administrative hearing (within 10 business days after the date of the arrest), with the right representation, it may be possible to negotiate a lesser suspension or otherwise achieve a rescission of the pending administrative suspension.

If convicted of DUI, any administrative removal of license is "credited" against the mandatory license suspension or revocation period required by conviction - *but only if licensee*

submitted to breath testing. If the DUI case is dismissed, *not proessed*, or acquitted, the administrative license suspension order may be rescinded upon filing the appropriate petition to the Alabama Law Enforcement Agency. [See, Code section 32-5A-304(c).]

A refusal to submit to the breath test will result in 90-day suspension for first refusal within the past five years and a one-year suspension if second or subsequent test refusal within the past five years. There is no "credit" provided if you refuse to submit to chemical testing and are later convicted of DUI. You will serve out the entire suspension period. Pleading guilty to the DUI offense will **not** shorten the suspension period.

16. **Driving While Suspended/Revoked** - If caught driving on a suspended or revoked driver license (suspended or revoked as a consequence of a DUI conviction or breath test refusal), your vehicle is subject to **immediate seizure and impoundment** [See, Code section 32-6-19] and you will face a new criminal charge of driving while suspended or driving while revoked with the possibility of a fine of up to \$500 and a jail sentence of up to 180 days.

Insurance Consequences

17. **Automobile insurance increased cost** (or denial of coverage) - If convicted of a DUI, your auto insurance premium will **substantially** increase, if the insurance policy is not canceled outright. Some auto insurance companies will transfer your current policy to the company's "specialty insurance" coverage plan with a resulting 50-60% increase in premiums. You will be required to remain in a "specialty insurance" plan for five years before reverting to standard premium rate. Other auto insurance companies (generally, those companies with the best rates for auto

John Thomas (Tommy) Kirk, Attorney



Mr. Kirk maintains his law office in Montgomery, Alabama. He was admitted to the Alabama State Bar in 1972 and for the past fifty years, has actively practiced criminal law. Following admission to the bar, Mr. Kirk spent eight years as prosecutor for the City of Montgomery Municipal Court and also represented the City of Montgomery at the Circuit Court level before devoting full time to his private practice. Developing his criminal defense practice in the early 1980s, Mr. Kirk was one of the founding members of the Alabama Criminal Defense Lawyers Association and later served as the organization's President. Mr. Kirk was one of the first lawyers in the state of Alabama to focus his criminal defense practice exclusively in defense of driving under the influence charges and alcohol-related offenses. Over the past four decades, Mr. Kirk has represented thousands of defendants charged with DUI or alcohol-related traffic assault or homicide charges. Tommy was among the Founding Members of the National College for DUI Defense (NCDD) and has previously served as Dean of the College (2004-2005) and as Board Regent.

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insurance) will simply not renew your policy and you will be required to find replacement insurance.

18. Denial of life insurance - Life insurance companies will typically deny policy issuance or raise rates for term insurance to the "standard rate" based on an underlying DUI conviction. (A convicted DUI offender will not qualify for the best "preferred risk" rates).

19. Denial of workman's compensation - If involved in an accident that would be covered by worker's compensation law, the workman's compensation claim could be denied if proof of DUI (an illegal act) causing your injuries is proven.

20. Exclusion of Punitive Damages - Almost every liability insurance carrier has a contractual exclusion of any *punitive damages* that may be awarded against you in a DUI-related traffic accident case causing injuries to another person or persons. By way of example, actual damages (for hospital bills, medical expenses, lost wages, and pain and suffering) may be only \$100,000, but that same jury may award \$500,000 or more in *punitive damages* to punish you for operating a motor vehicle while under the influence and causing the wreck that injured another party. The award of punitive damages is **NOT** covered by your insurance, and must be paid by you.



Travel and Immigration Consequences

21. Denied a rental car - Major rental car companies will not rent vehicles to anyone with a DUI conviction. (The length of time varies from 3 to 6 years, depending on the company).

22. Denied Entry - Total denial of ability to travel to and enter some countries (specifically, Canada) while other countries may deny a visa.

23. Business trip blocked - Business or personal trips to some foreign countries, such as Canada, may be blocked or extremely difficult to obtain. Pre-application through the Canadian consulate is required, even for a short visit for pleasure or business.

24. Denial of naturalization - Not allowed to become U.S. citizen through taking the citizenship exam for 5 years *after* the DUI case is closed out.

25. Deportation - Possible deportation from the U.S. to country of origin, if not a U.S. citizen, but usually only when multiple criminal convictions while in the U.S.A. or a felony-level DUI case such as "serious injury by vehicle" or "homicide by vehicle".

26. Green Card restriction - "Green" card renewal or work visa renewal can be denied or delayed as a result of a DUI arrest or a DUI conviction. Additional immigration consequences:

- If you possess no proper proof of current legal residency in U.S.A., you may be detained in the county jail for federal immigration pickup.
- Travel from U.S.A. and back to the U.S.A. can be delayed at customs, or even prohibited altogether. This inconvenience can last for hours or even days, causing you to miss connecting flights.

27. Travel while on Probation - A second DUI with a cumulative probation of 12 months or longer may trigger the provisions of "The Interstate Compact" – See, www.interstatecompact.org, section 2.105 (a)(3) - and the dozen or so subsequent provisions under that statute. You may not be allowed to move to or even travel to another state while on probation, without permission of your sentencing state and the permission of the incoming state.

Employment Consequences

28. Denial or termination of employment - Where a valid driver license is required as a condition of employment, an employer that requires a valid driver license as a condition of employment may lawfully fire an employee who loses their driver license or permit to operate a motor vehicle. Typically, automobile dealers and automotive franchisees have a "morals" clause in their agreements with manufacturers; a DUI conviction (or license suspension under the Alabama Administrative License Suspension Act) will result in immediate termination from employment.

29. Securities Broker - If licensed as a broker under federal or state securities laws, a DUI convicted offender can lose ability to be a broker (e.g., series 7, series 63).

30. **Job applications** – The applicant must always check the box “yes” when asked about prior convictions and disclose the disposition of the case to the prospective employer.

31. **Professional license applications** – Any of the “licensed professions” (e.g., State Bar for attorneys, Medical Board of physicians, Nursing Board for registered nurses; Pharmacy Board for pharmacists; Board of Education for teachers) can withhold or deny licensure or initiate revocation proceedings for a DUI arrest or conviction. For example, a DUI arrest *without conviction* will “flag” a law student’s application to sit for the Alabama bar exam and will require a mandatory appearance before the Character & Fitness Committee of the Alabama State Bar.



32. **Mandatory Reporting** - Many, if not most, employee manuals require immediate disclosure (normally within 72 hours) to the Human Resources department of any criminal arrest, to include DUI. Then, a company official decides upon termination, suspension, demotion or mandatory “rehabilitation” of the employee. Failure to report the DUI arrest when included in the employee’s manual is grounds for summary termination.

33. **Loss of company vehicle** with associated loss of the financial savings from not having to own and maintain another vehicle. If you are allowed to remain in your current job, the mileage allowance is generally not nearly as favorable as the benefit of using a company vehicle.

34. **Loss of company insurance** for your company-issued vehicle. The rules as to how much insurance you must have on any personal vehicle used to carry out company business, to protect your company in case of another DUI-related arrest involving an accident, may be unattainable due to high cost or no insurer willing to sign on to a high risk driver.

35. **Denial of company procured rental car** - If your company has a standing rental car contract with Avis, National or Hertz, but your license check through your state’s DMV by those companies’ computer shows a DUI conviction, access to a rental car will be denied. If the rental car company denies your access to their vehicles, and your company will not pay for another rental car company, you may not be able to perform your job.

36. **Denial of required CDL endorsement** - School bus drivers and church bus drivers (any vehicle that has a capacity to carry 16 or more passengers) require a Class ‘B’ endorsement. Any person convicted of DUI or held to an ALS suspension are “disqualified” for one year for first offense and **disqualified for life** for second offense.

37. **Concealed weapons permits** – A “pistol permit” to carry a concealed weapon could be denied based on second or subsequent DUI conviction as indicative of an unfit applicant. [See, Code section 13A-11-75(a) allowing the issuing Sheriff to deny a pistol permit for “justifiable concern for public safety.”]

38. **Loss of employment** - Some industries/employers will terminate an employee *immediately* upon conviction for a DUI (e. g., any pharmaceutical sales company); other companies will terminate or place on unpaid “administrative leave” any employee *arrested* for a DUI offense pending the outcome of the underlying DUI case.

39. **Security Clearance issues** - U.S. government security clearance may be denied or revoked at military bases or similar businesses that “contract” with the U.S. Government on high security clearance (e.g., nuclear power plants). A ‘Top Secret’ security clearance may be administratively suspended upon receiving notice of a DUI arrest, and may be revoked upon receiving notice of a DUI conviction.

40. **Military sanctions** - Military superior officers may sanction any service member arrested for the offense of DUI by denying privileges to operate a motor vehicle on the base, and impose other restrictions on duties. Examples of sanctions are denial of a promotion in rank, removal from command position, restricted to the military base, denial of privilege to drive on any military property or any military vehicle, denial of the right to re-enlist when present contract is completed. Commissioned and warrant officer personnel can expect to receive a “General Officer” letter of reprimand for any DUI *arrest* which will almost certainly result in non-selection for promotion at the next officer promotion board. (The cumulative effect of these sanctions can cause the service-member to miss valuable retirement benefits for completion of 20 or more years’ military service).

41. **Denial of Honorable Discharge** - Personnel in the military who are about to be deployed to combat duty can

be pulled out of deployment and may be discharged from military service, possibly by general discharge, for a DUI conviction.

42. **Denial of admission to many professional schools** - Many professional schools – such as accredited law schools, medical school, dental school, nursing school, or pharmacy school – will not enroll an applicant with a DUI conviction within the past five years.

43. **Pilot's License** - Commercial or private pilot's license can be revoked or withheld as a result of any administrative driver's license suspension or a DUI conviction. Failure to make timely report (within 60 days) to FAA can revoke the pilot's license.

44. **Teachers** - A teacher may lose an existing job in certain schools and counties, both private and public, as a consequence of a DUI conviction.

45. **Denial of enlistment during probation** - All branches of the armed forces, including the National Guard and reserves, will delay your enlistment until all phases of probation is terminated. Under current enlistment standards, no person may lawfully enlist in any branch of the service while under any probationary sentence from a civilian court.

46. **Doctors, dentists, nurses, and pharmacists may be suspended from practice** until "rehabilitated" for alcohol dependency or drug dependency. The registrant's DEA permit to dispense medications or any other controlled substance can be withdrawn permanently or for a period of time, to be later reconsidered by the applicable Board.

47. **Employment at an establishment serving alcohol** - "Pouring" license to serve alcohol (bartender) may be denied by applicable city or county board if you have DUI or if you are on probation for DUI.

48. **Accountants** - CPAs with larger firms are required to report a DUI conviction under the full financial disclosure rules of the federal Sarbarnes-Oxley Act.



DUI Financial Consequences

49. **Civil Judgments** - Any civil judgment, including punitive damages, if accident related to a DUI offense, will not be covered by auto insurance. See section 21, above, concerning how punitive damages are **NOT** covered. You may have to pay all "out-of-pocket" damages due to the 'DUI-exclusion' clause contained in the automobile insurance policy.

50. **Cost of treatment** - Alcohol and drug dependency screening may indicate that treatment is needed, and this treatment may cost you thousands or tens of thousands of dollars to complete. In-patient treatment at a private provider substance abuse facility commonly costs up to \$1000 per day or \$20,000 for a 28-day treatment program. Health insurance may pay for up to 30 days per year, but many health insurance policies will not cover substance abuse treatment.



51. **Adverse credit report** - Your credit score may be negatively affected by a DUI conviction being reported.

52. **Inability to purchase a new car** - Typically, you cannot purchase a new car without a valid plastic driver's license in your possession (Homeland Security Act).

53. **Restitution** - Restitution is required in every criminal case in the state of Alabama where any party is injured by the criminal acts of another person. [See, *Code of Alabama*, 1975, section 15-18-67 and Rule 26.11 *Alabama Rules of Criminal Procedure*.] If convicted of a DUI-related traffic accident, the court may order you to repay property damages or medical bills to an injured third party as part of the Court's sentence and you may be placed under continued probation until such time the full restitution amount ordered by the court is paid.

54. **Probation fees and random drug test fees** - Probation fees typically run \$40 to \$50 +/- per month, or \$480 to \$600 per year. Each drug screen ordered by the CRO or probation officer will cost the probationer \$40 per screening.

55. **Ignition Interlock Device (IID)** - Installation fee is approximately \$150 per vehicle, with a \$40 to \$50 calibration and supervision fee *each month*; a twenty-four month installation requirement will cost the offender around \$1200 to \$1300 per year to comply with the interlock order.

Unrelated Legal Consequences

56. **Child custody and child visitation** - A DUI arrest or conviction is often used as “leverage” to obtain custody, limit or restrict visitation, or even change which parent is designated the primary custodial parent. The family court will take cognizance of any alcohol or drug related offense, to include a DUI, as grounds to determine the fitness or unfitness of the custodial parent.

Additionally, if your driver license is suspended or revoked as a consequence of a DUI arrest or conviction, the family court can lawfully enter an order to limit the DUI offender’s right to transport minor children, except under supervision of another licensed adult driver. Violation of this order could result in a contempt of court citation being issued by the family court judge.

57. **Non-Discharge into Bankruptcy** - A traffic accident caused by DUI where others are injured or killed can lead to a substantial personal injury claim becoming **NON-DISCHARGEABLE** in federal bankruptcy court. In order to satisfy the judgment, your wages can be garnished indefinitely until the full debt created by the judgment is paid in full. [See, 11 U.S.C.A. § 523(a)(9)]

58. **Requirement to wear ankle bracelet while waiting trial** - If you are repeat offender, the trial court may require that you meet certain conditions while the new case is pending such as installing an ignition interlock system on any vehicle that you operate or wearing a transdermal ankle bracelet. The trial court has the inherent authority to require weekly drug or alcohol screening while your case is pending and you are under a bond.

59. **Prohibited from the purchase, possession, use, or transportation of firearms or ammunition** - If you are convicted of a **felony** DUI conviction, a convicted felon cannot purchase or possess any firearms or ammunition. It is **federal criminal offense** punished by up to five years in federal prison for any felon to possess any firearm or ammunition. [See, 18 U.S.C.A. § 922(g).]

Educational Consequences

60. **Educational sanctions** - A college or university may sanction you — separate from the administrative license suspension and criminal cases — for using alcohol illegally (either DUI or possession of alcohol) any time offense occurs on campus property. Some colleges go beyond this to include any reported arrest or conviction. Typical sanction is suspension for a semester or quarter, plus alcohol or drug treatment classes

61. **Loss of Scholarship** - If recipient of a college scholarship, many private scholarships typically contain some type of “morals” clause for bad behavior that may bring disrepute upon the reputation of the memorial scholarship that was given in honor of an alumni or politician.

62. **Denial of “Study Abroad” Programs** - If you were planning a study abroad program, whether voluntary or mandated by your degree program (e.g., executive MBA), you are typically prevented from going with the other participants if you have a pending case or are currently on probation.

Other DUI Consequences

63. **Loss of ability to rent a rental vehicle** - If you cannot rent a car for work or travel, the convicted offender must pay for cabs or seek other transit options out of your pocket. Sometimes, the convicted offender must take another company employee along to drive, so as to not raise questions about their inability to rent a car. Most expense accounts will not cover anything but the standard “contract” rental car vehicle.

64. **Hobbies may be restricted or prevented outright** - If your Alabama driver license is suspended or revoked, traveling out of the country for golfing, fishing, hunting or other sports event may be embargoed by your DUI.

65. **Unfavorable Publicity** - Arrest records are available online (e.g., Google search) so you can be “Googled” at any time by any person. These records are copied and posted on “mugshot” websites, causing



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you public embarrassment (at a minimum) and possibly cost you your job.

66. **"Public Shaming"** - Convenience stores and similar public outlets often carry tabloid-style newspapers that feature the mug shots of all recently-arrested individuals, along with the list of criminal charges. These papers usually are found near the cash register and cost about \$1.00. The proliferation of these tabloids is proof of their popularity.

67. **Reliance on a non-driver ID** - Having to use a U.S. Passport or state-issued non-driver ID to cash a check (instead of driver's license) may create a stigma with your local merchants, bankers, or other regular financial or products service providers.

68. **Denial of Entry privilege** - You can be "turned away" from airport at "port of entry" in foreign country (i.e., all parts of Canada) due to DUI showing on record. If you lie about not having a prior conviction, that can be a felony-level crime in some countries.

69. **Restriction on volunteer activities** - If you apply to your religious organization for a volunteer position (e.g., Sunday school teacher) expect to sign release forms for a background check. Some churches will reject any person with a prior DUI. Any person convicted of DUI is *disqualified* from obtaining a CDL to operate a church bus (for one year, first offense) or for life (second and subsequent offense).

70. **Requirement to disclose if called for jury service** - If called for jury duty, one common question asked of the venire panel, if you are questioned, is about "prior criminal convictions, including DUI." You may also be asked if you are "on probation." Every misdemeanor DUI case in Alabama includes up to 24 months of probation. You must answer truthfully to every question posed by the attorneys during juror questioning or be held in contempt of court.

Alabama State Bar Rules Require the following statement: *"No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers."*

PATRICK MAHANEY
ATTORNEY AT LAW
8650 Minnie Brown Rd., Ste 150
Montgomery, Alabama 36117
For more information, please visit:
www.mahaneylaw.com
(334) 277-3974

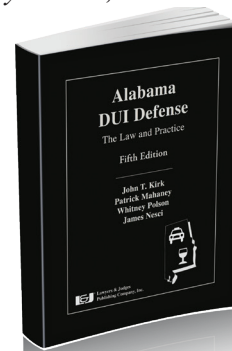
JOHN THOMAS (TOMMY) KIRK
ATTORNEY AT LAW
445 S. Decatur Street
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For more information, please visit:
www.montgomerydui.com
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